



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CENTURY 21 EXECUTIVE REALTY LTD. and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNR FFT

Introduction

The tenants applied to cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the “Notice”) under section 46 of the *Residential Tenancy Act* (“Act”). They also sought recovery of the cost of the filing fee under section 72 of the Act. The parties attended the hearing on March 16, 2021, which was held by teleconference.

Preliminary Issue: Copy of 10 Day Notice Not in Evidence

The Notice which gave rise to this application was not provided into evidence by either party. While the tenants provided a PDF document labelled “10_day_notice.pdf” the actual document displayed an email header with no additional information. The landlord submitted a copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, but this notice was served in early January 2021 and against which the tenants have filed a separate application for dispute resolution. The landlord also served a further notice on February 15, 2021, which will also be heard with the tenants’ separate application. The hearing date for the tenants’ separate application is May 25, 2021. The tenant explained that they anticipate submitting additional evidence for that hearing.

All of which is to say: neither party provided a copy of the single most important document in a dispute of this nature. That is, a copy of the notice to end tenancy. (In fairness, however, the landlord remarked that they essentially abandoned the Notice for various reasons, and the tenant said that they did not think that the landlord would be pursuing enforcement of that notice or attending today’s hearing.)

As per Rule 2.2 of the *Rules of Procedure*, the “claim is limited to what is stated in the application.” Thus, in the absence of a copy of the notice, and given that both parties have an arbitration hearing in May 2021 for which “proper” notices have been served, I dismiss the tenants’ present application and make no findings in respect of the Notice.

Conclusion

I dismiss the tenants' application, without leave to reapply.

This decision is made on authority delegated to me under section 9.1(1) of the Act.

Dated: March 16, 2021

Residential Tenancy Branch