



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 882520 N.W.T. Ltd
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR-DR, OPRM-DR, FFL

Introduction

This matter proceeded by way of an *ex parte* Direct Request Proceeding, pursuant to section 55(4) of the *Residential Tenancy Act* (the *Act*), and dealt with an Application for Dispute Resolution by the landlord for an Order of Possession based on unpaid rent and a Monetary Order.

The landlord submitted a signed Proof of Service Notice of Direct Request Proceeding which declares that on March 11, 2021, the landlord sent the tenant the Notice of Direct Request Proceeding by registered mail to the rental unit. The landlord provided a copy of the Canada Post Customer Receipt containing the tracking number to confirm this mailing. Based on the written submissions of the landlord and in accordance with sections 89 and 90 of the *Act*, I find that the tenant is deemed to have been served with the Direct Request Proceeding documents on March 16, 2021, the fifth day after their registered mailing.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent pursuant to sections 46 and 55 of the *Act*?

Is the landlord entitled to monetary compensation for unpaid rent pursuant to section 67 of the *Act*?

Is the landlord entitled to recover the filing fee for this application pursuant to section 72 of the *Act*?

Analysis

Res judicata prevents a plaintiff from pursuing a claim that already has been decided and also prevents a defendant from raising any new defense to defeat the enforcement of an earlier judgment.

A previously decided issue is comparable to the criminal law concept of double jeopardy.

I have reviewed all documentary evidence and I find that the landlord had a dispute resolution hearing with the Residential Tenancy Branch on March 11, 2021. As a result of this hearing, the landlord was granted an Order of Possession based on a 10 Day Notice served on November 4, 2020.

I find I cannot end a tenancy that has already been terminated. For this reason, I dismiss the landlord's application for an Order of Possession based on the 10 Day Notice dated February 17, 2021 without leave to reapply.

I also find that, at the hearing, the landlord was successful in obtaining a Monetary Order which includes unpaid rent owing for February 2021 and March 2021.

Therefore, the landlord's application for a Monetary Order for unpaid rent owing for February 2021 and March 2021 is dismissed without leave to reapply.

As the landlord was not successful in this application, I find that the landlord is not entitled to recover the \$100.00 filing fee paid for this application.

Conclusion

I dismiss the landlord's application for an Order of Possession based on the 10 Day Notice dated February 17, 2021 without leave to reapply.

I dismiss the landlord's application for a Monetary Order for unpaid rent owing for February 2021 and March 2021 without leave to reapply.

I dismiss the landlord's application to recover the filing fee paid for this application without leave to reapply.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: March 22, 2021

Residential Tenancy Branch