



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding GATEWAY PROPERTY MGT.
CORP. and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNR, OLC, PSF

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46;
- an order requiring the landlord to comply with the Act, regulation or tenancy agreement pursuant to section 62;
- an order to the landlord to provide services or facilities required by law pursuant to section 65.

The tenants did not attend. The landlord's agent, F.M. (the landlord) attended the hearing via conference call and provided affirmed testimony.

The landlord was advised that the conference call hearing was scheduled for 60 minutes and pursuant to the Rules of Procedure, Rule 6.11 Recordings Prohibited that recording of this call is prohibited.

The landlord confirmed that the tenant served the landlord with the notice of hearing package and the submitted documentary evidence. I find as such, that despite the tenants not attending the hearing, the landlord is deemed served as per section 90 of the Act.

The hearing was paused for 10 minutes to allow the tenants to attend, make submissions and participate in the hearing process. At 11:11am, the hearing resumed in the absence of the tenants.

This matter was set for a conference call hearing at 11:00 a.m. on this date. The tenants did not attend. The landlord's agent (the landlord) attended the hearing via conference call and provided undisputed testimony. The landlords confirmed that they were served with the tenants' application for dispute and that they were aware of the listed issue(s). I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that I was the only person who had called into this teleconference.

I waited until 11 minutes past the start of the scheduled hearing time in order to enable both parties to connect with this teleconference hearing.

Rule 7 of the Rules of Procedure provides that:

7.1 Commencement of the dispute resolution hearing

The dispute resolution hearing will commence at the scheduled time unless otherwise set by the arbitrator.

7.2 Delay in the start of a hearing

In the event of a delay of a start of a conference call hearing, each party must stay available on the line to commence the hearing for 30 minutes after the time scheduled for the start of the hearing.

In the event of a delay of a face-to-face hearing, unless otherwise advised, the parties must remain available to commence the hearing at the hearing location for 30 minutes after the time scheduled for the start of the hearing.

7.3 Consequences of not attending the hearing

If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.

7.4 Evidence must be presented

Evidence must be presented by the party who submitted it, or by the party's agent. If a party or their agent does not attend the hearing to present evidence, any written submissions supplied may or may not be considered.

Accordingly, in the absence of any evidence or submissions from the tenant and in the absence of the tenant's participation in this hearing, I order the application dismissed without leave to reapply. I make no findings on the merits of the matter.

The landlord stated that they are not seeking an order of possession and wish only to recover unpaid rent for the last 4 months.

The landlord was advised that on March 25, 2021, Bill 7- 2021: Tenancy Statutes Amendment Act, 2021 states in section 19, Section 55 is amended by adding the following subsection:

(1.1) If an application referred to in subsection (1) is in relation to a landlord's notice to end tenancy under section 46 [landlord's notice: non-payment of rent], and the circumstances referred to in subsection (1) (a) and (b) of this section apply, the direct must grant an order requiring the payment of the unpaid rent.

[reproduced as written]

This essentially means that when a tenant fails to successfully dispute the notice to end tenancy for unpaid rent and the dispute is dismissed or the Notice to end tenancy is found to be valid, the landlord will be granted a monetary order for the unpaid rent, except for applications made prior to March 25, 2021.

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: May 25, 2021

Residential Tenancy Branch