



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, MNDCT, OPR, MNR, FF

Introduction

This hearing was convened in response to applications by the landlords and the tenant.

The landlords' application is seeking orders as follows:

1. For an order of possession;
2. For a monetary order for unpaid rent; and
3. To recover the cost of filing the application.

The tenant's application is seeking orders as follows:

1. To cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "Notice"); and
2. For a monetary order for monetary loss or other money owed.

Only the landlords appeared. The landlords acknowledged receiving the tenant's application for dispute resolution.

The landlords stated that they served the tenant with a copy of their Application for Dispute Resolution and Notice of Hearing which were sent by registered mail sent on May 10, 2021, a Canada post tracking number was provided as evidence of service. I have noted the tracking number on the covering page of this decision.

Section 90 of the Act determines that a document served in this manner is deemed to have been served five days later. I find that the tenant has been duly served in accordance with the Act.

I also note that on May 28, 2021, the Residential Tenancy Branch sent by email, a reminder to the tenant that they have an upcoming dispute resolution proceeding scheduled for today's date, May 31, 2021. Yet the tenant did not attend at any time

during the hearing to provide evidence in support of their application or oppose the landlords' application. The hearing proceeded in the absent of the tenant.

Issues to be Decided

Should the Notice be cancelled?

Is the tenant entitled to a monetary order for monetary loss or other money owed?

Are the landlords entitled to an order of possession for unpaid rent?

Are the landlords entitled to a monetary order?

Background and Evidence

The tenant submits in their application for dispute resolution that they received the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities on April 20, 2021.

The landlords testified that the tenant failed to pay rent for April 2021, in the amount of \$2,500.00, which was due on the 18th day of each month. The landlords stated they issued the Notice on April 20, 2021 and served the tenant on the same day.

The landlords testified that the tenant did not pay the outstanding rent for April 2021 and has now failed to pay rent for May 2021. The landlords seek to recover unpaid rent in the amount of \$5,000.00 and an order of possession.

Analysis

Based on the above, the testimony, and evidence, and on a balance of probabilities, I find as follows:

Although the tenant filed an application disputing the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, I find the tenant's application had no merit because rent was not paid.

The tenant did not attend the hearing to prove that they had the authority under the Act, to withhold the rent, such as an order from an Arbitrator. I find the Notice is valid and remains in full force and effect. I find the tenancy legally ended on April 30, 2021, which is the effective date listed in the Notice and the tenant is overholding the premise. Therefore, I dismiss the tenant's application to cancel the Notice.

I find that the landlords are entitled to an order of possession, pursuant to section 55 of the Act, effective **two days** after service on the tenant. This order may be filed in the Supreme Court and enforced as an order of that Court. The **tenant is cautioned** that costs of such enforcement are recoverable from the tenant.

I accept the undisputed testimony of the landlords that the tenant did not pay rent for April and failed to pay subsequent rent for May 2021. I find the tenant has breached section 26 of the Act. Therefore, I grant the landlords a monetary order for unpaid rent in the amount of **\$5,000.00**.

I find that the landlords have established a total monetary claim of **\$5,100.00** comprised of unpaid rent, and the \$100.00 fee paid by the landlords for this application. I grant the landlords a formal monetary order pursuant to section 67 of the Act.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court. The **tenant is cautioned** that costs of such enforcement are recoverable from the tenant.

Since the tenant did not appear to provide any testimony or evidence on their claim for a monetary order for monetary loss or other money owed, I find I must dismiss the tenant's application without leave to reapply.

Conclusion

The tenant's application is dismissed without leave to reapply.

The landlords are granted an order of possession and monetary order as described above.

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 31, 2021

Residential Tenancy Branch