



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant filed under the *Residential Tenancy Act* (the “Act”) to cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the “10 Day Notice), issued on March 15, 2021..

This matter was set for hearing by telephone conference at the request of the tenant. On July 10, 2021, the tenant was also sent a reminder email notification from the Residential Tenancy Branch of the hearing scheduled for todays date to the email address the tenant provided in their application. The tenant did not appear, and the hearing proceeded in the absent of the tenant. The hearing proceeded for 25 minutes and at no time did the tenant call into the telephone conference.

The landlord appeared gave affirmed testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing. The landlord confirmed they were not making any unauthorized recording of this hearing.

Issue to be Decided

Should the 10 Day Notice be cancelled?

Is the landlord entitled to an order of possession and monetary order for unpaid rent pursuant to section 55 (1) and 55 (1.1) and 55(4)(b) of the Act?

Background and Evidence

The tenancy began on August 26, 2018. Rent in the amount of \$1,000.00 was payable on the first of each month. A security deposit of \$500.00 was paid by the tenant. Filed in evidence is a copy of the tenancy agreement.

The landlord testified that the tenant was served with the 10 Day Notice for unpaid rent on March 17, 2021. Filed in evidence is a copy of the 10 Day Notice.

The landlord testified at the time the tenant was in rent arrears of \$2,131.00. The landlord stated that the tenant had rent arrears from September 2019 of \$100.00 and a further rent arrears of \$31.00 for September 2020. The landlord stated that that the tenant did not pay rent for February or March 2021 leaving a further amount owed of \$2,000.00. The landlord stated the tenant did not pay the rent owed within 5 days of receiving the 10 Day Notice as rent for February was paid on March 30, 2021 and rent for March was paid on June 8, 2021.

The landlord testified that the tenant did not pay subsequent rent for April, May, June, and July 2021; however, on July 8, 2021 they received \$1,000.00 towards the outstanding rent. The landlord stated the tenant currently owes the total amount of \$3,131.00.

The tenant submits the following submission in their written application, this was copied and pasted from their application.

My common-law partner and I have separated due to domestic violence and safety concerns as of March 6th. He was routinely responsible for paying rent and my understanding was that the rent was paid. I am in contact with Women's Support Services and other Community Supports for help to pay what I owe for both the rent and utilities. I finished job-training March 3rd and will begin work March 30th, so will be able to cover my rent and utilities in the future.

Analysis

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

In this case, I have reviewed the 10 Day Notice filed in evidence. I find the 10 Day Notice complies with section 52 of the Act.

I accept the evidence of the landlord that the tenant was in rent arrears of \$131.00 and then failed to pay rent for February and March 2021 and was served with the 10 Day Notice. The tenant acknowledge they received the 10 Day Notice, when they filed their application.

Although the tenant disputed the 10 Day Notice, I find their application had no merit as they acknowledged the rent was not paid.. I find the tenant breach section 26 of the Act, when they failed to pay the rent. Therefore, I dismiss the tenant's application without leave to reapply and uphold the 10 Day Notice.

As I have dismissed the tenant's application and have upheld the 10 Day Notice, I must consider the provision of section 55 of the Act that state I must grant the landlord an order of possession and a monetary order for unpaid rent.

I find I must grant the landlord 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 find I must grant the landlord a monetary order for the unpaid rent. I accept the landlord's undisputed testimony that as of today date the tenant owes the landlord the amount of unpaid rent in the total amount of \$3,131.00. This is supported by the landlords rent ledger and etransfers sent by the tenant. I find the landlord has established a total monetary claim of **\$3,131.00** for unpaid rent.

I order that the landlord retain the security deposit of **\$500.00** to offset the amount owed, I grant the landlord an order under section 55(4)(b) and 67 of the Act for the balance due of **\$2,631.00**. 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.

Although I note the 10 Day Notice also had unpaid utilities; however, I have decline to consider the unpaid utilities at this hearing, as the landlord has not submitted copies of the said unpaid utilities for me to consider. The landlord is entitled to make their own application claiming the unpaid utilities if they choose to do so in the future.

Conclusion

The tenant's application is dismissed without leave to reapply. The landlord is granted an order of possession and a monetary order pursuant to section 55(4)(b) and 67 of the Act. I authorize the landlord to keep the security deposit to offset the amount owed.

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: July 13, 2021