



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding MAPLE LEAF PROPERTY MANAGEMENT and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNR, RR, OLC, MNDCT, FFT

Introduction

On June 17, 2021, the Tenant applied for Dispute Resolution under the *Residential Tenancy Act* (“the Act”) to cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, dated June 10, 2021. The Tenant also applied for the following relief:

- for a rent reduction
- for an order for the Landlord to comply with the Act
- for a monetary order for money owed or compensation for damage or loss

The matter was set for a conference call hearing. The Landlord’s agent (“the Landlord”) attended the teleconference hearing; however, the Tenant did not. The line remained open while the phone system was monitored for fifteen minutes and the applicant / Tenant did not call into the hearing during this time. Therefore, since the Applicant did not attend the hearing by 9:45 am, I dismiss the claim to cancel the 10 Day Notice without leave to reapply.

Issues to be Decided

- Is the Landlord entitled to an order of possession?
- Is the Landlord entitled to a monetary order for unpaid rent?

Background and Evidence

The Landlord testified that the tenancy began on September 13, 2019 on a month-to-month basis. The Landlord testified that rent in the amount of \$2,600.00 was due to be paid to the Landlord by the first day of each month.

The Landlord testified that the Tenant failed to pay the rent when it was due under the tenancy agreement.

The Landlord testified that the Tenant was served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated June 10, 2021 ("the 10 Day Notice").

The 10 Day Notice provides that the Tenant has failed to pay rent in the amount of \$5,251.23 which was due for May and June 2021. The 10 Day Notice informed the Tenant that the Notice would be cancelled if the rent was paid within five days. The Notice also explains the Tenant had five days to dispute the Notice.

The Landlord testified that the Tenant did not pay the rent due under the tenancy agreement /or 10 Day Notice within 5 days of receiving the Notice. The Landlord testified that the Tenant has not paid any rent since the 10 Day Notice was issued.

The Landlord stated that the Tenant moved out of the rental unit on October 15, 2021; however, the Landlord still wants an order of possession. The Landlord requested an order of possession for the rental unit and a monetary order for unpaid rent. The Landlord provide a rent ledger showing that the rent owing under the tenancy agreement has not been paid from May 2021 up to and including September 2021. The Landlord is seeking a monetary order for unpaid rent in the amount of \$13,051.00.

The Landlord testified that the amount of \$51.23 is due to two bounced rent cheques for May and June 2021. The Landlord testified that the tenancy agreement permits a \$25.00 fee for bounced rent payments.

A request was made to keep the security deposit.

Analysis

Section 26 of the Act provides that a tenant must pay the rent when it is due under the tenancy agreement, whether or not the landlord complies with the Act, the regulations, or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

Under section 55 of the Act, when a tenant's application to cancel a notice to end tenancy is dismissed and I am satisfied that the notice to end tenancy complies with the requirements under section 52 regarding form and content, I must grant the landlord an order of possession. If a tenant's application is in relation to a notice to end tenancy for non-payment of rent, and the tenant's application is dismissed, the director must grant an order requiring the payment of the unpaid rent.

The Tenant failed to attend the hearing to pursue the application to cancel the 10 Day Notice. I dismiss the Tenant's application to cancel the 10 Day Notice.

I find that the Tenant failed to pay the rent due under the tenancy agreement for May and June 2021 within five days of receiving the 10 Day Notice. I find that the tenancy ended on October 15, 2021 due to a fundamental breach of the tenancy agreement regarding payment of rent.

I find that the 10 Day Notice complies with the requirements for form and content, and I find that the Landlord is entitled to an order of possession effective two (2) 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 that the Landlord is entitled to a monetary order for unpaid rent from May 2021 up to and including September 2021. I grant the Landlord a monetary order in the amount of \$13,051.23. This monetary order may be enforced at Provincial Court. The Tenant is cautioned that costs of such enforcement are recoverable from the Tenant.

Since it is the Tenant's application before me, the legislation under section 55 (1) of the Act only permits me to consider granting the Landlord an order of possession and a monetary order for unpaid rent. Other monetary claims are not expressly permitted. Therefore, the claim to keep the security deposit cannot be included. If the Landlord wants to retain the security deposit, the Landlord must make a separate application for dispute resolution and give proper notice to the Tenant in accordance with the provisions of the legislation.

Conclusion

The Tenant failed to attend the hearing and the Tenant's application to cancel the 10 Day Notice is dismissed without leave to reapply.

The Tenant failed to pay the rent due under the tenancy agreement within five days of receiving a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities.

The Landlord is granted an order of possession effective two days after service on the Tenant and the Landlord is granted a monetary order for unpaid rent in the amount of \$13,051.23.

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: October 18, 2021

Residential Tenancy Branch