



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, FFT

The tenants filed an Application for Dispute Resolution on June 8, 2021 for:

- a cancellation of the 10-Day Notice to End Tenancy for Unpaid Rent (the “10-Day Notice”) issued by the landlord on June 8, 2021;
- reimbursement of the Application filing fee.

The matter proceeded to a hearing by way of s. 74(2) of the *Residential Tenancy Act* (the “Act”) on October 5, 2021. The landlord and one of the tenants both attended the hearing to speak to the issues at hand. At the start of the hearing both parties confirmed that the tenants already moved out from the rental unit on July 17, 2021.

Given that the tenancy has ended, the validity of the 10-Day Notice is not at issue. The issue about the end of tenancy is settled. This was reached by mutual agreement in a separate dispute resolution hearing on June 1, 2021. The Arbitrator issued an Order of Possession for July 23, 2021. For this reason, I dismiss the tenants’ Application here in its entirety.

In that prior decision, the Arbitrator did not decide on the tenants’ claim for compensation, giving them leave to re-apply on that discrete issue. For this present hearing, the tenant present did not make a claim for compensation; however, they reiterated their points about the rent amount as set out on the tenancy agreement. A monetary claim does not form part of their Application here; that is a separate application for another dispute resolution. For this reason, I make no findings on the merits of the tenant’s claim for false amount of rent owing, or other compensation.

The landlord issued the 10-Day Notice on June 8, 2021 for incomplete rent payment by the tenants in that month. In this hearing the landlord submitted that \$2,200 was still owing by the tenants for that shortfall.

The *Act* s. 55 sets out the following:

- (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant to the landlord an order of possession of the rental unit if
- (a) the landlord's notice to end tenancy complies with section 52 [*form and content*], and
 - (b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.
- (1.1) If an application referred to in subsection (1) is in relation to a landlord's notice to end a tenancy under section 46 [*non-payment of rent*], and the circumstances referred to in subsection (1)(a) and (b) apply, the director must grant an order requiring the payment of the unpaid rent.

The tenancy has ended; therefore, the validity of the 10-Day Notice is not at issue. Because of this, I make no consideration of the form and content requirements of the document. Further, I am neither dismissing the tenant's Application based on the validity of the Notice, nor upholding the 10-Day Notice.

The s. 55(1)(a) and (b) requirements normally lead to a repayment of unpaid rent, as per s. 55(1.1). In this scenario where the tenancy ended by agreement, I make no findings on s. 55(1)(a) or (b); therefore, I do not grant a monetary order to the landlord for unpaid rent.

The tenancy already ended; however, the tenant did not withdraw their Application here. For this reason, I make no award for the Application filing fee.

Conclusion

The tenants' Application is dismissed without leave to reapply. This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under s. 9.1(1) of the *Act*.

Dated: October 8, 2021

Residential Tenancy Branch