



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FFT, CNR, OLC, MNDCL, FFL

Introduction

This hearing was scheduled to deal with cross applications. The tenants applied to dispute a 10 Day Notice to End tenancy for Unpaid Rent or Utilities and orders for the landlord to comply with the Act, regulations, or tenancy agreement. The landlord made an application for a Monetary Order for unpaid utilities.

The landlord and her agent appeared at the hearing; however, there was no appearance on part of the tenants despite leaving the teleconference call open approximately 30 minutes.

The landlord acknowledged the tenants served the landlord with their Notice of Dispute Resolution Proceeding, via email, and the landlord took no issue with service by email. The landlord testified that the tenants moved out of the rental unit at the end of July 2021 and the landlord confirmed she does not require an Order of Possession. As such, I find the tenant's application to be moot and I dismissed it without leave to reapply.

The landlord stated she seeks a Monetary Order for the unpaid utilities.

Under section 55(1.1) of the Act, a landlord may be provided a Monetary Order for unpaid rent (which includes utilities demanded 30 days prior to issuance of the 10 Day Notice and not paid) under a tenant's Application for Dispute Resolution that is set to deal with a disputed 10 Day Notice to End Tenancy for Unpaid Rent or Utilities; however, I declined to further consider granting the landlord a Monetary Order under section 55(1.1) because neither party provided a copy of the 10 Day Notice and neither party served evidence upon the other for this proceeding with respect to utilities owed and the landlord's demand to the tenants for payment of utilities.

The landlord had sought a Monetary Order for unpaid utilities by way of the landlord's Application for Dispute Resolution; however, I heard the landlord did not serve her application or evidence package to the tenants. Given the failure to serve the tenants with the landlord's Application for Dispute Resolution and evidence, as required under section 59 of the Act and Rule 3.1 of the Rules of Procedure, I dismissed the landlord's application with leave to reapply.

Conclusion

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

The tenants have already vacated the rental unit and an Order of Possession is not required or provided with this decision.

The landlord's claim for unpaid utilities is dismissed with leave to reapply.

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 08, 2021

Residential Tenancy Branch