



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **CNR, OLC**

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "**Act**") for:

- An order to cancel a 10 Day Notice to End Tenancy for Unpaid Rent/Utilities pursuant to sections 47 and 55; and
- An order that the landlord comply with Act, Regulations or tenancy agreement pursuant to section 63.

The landlord did not attend this hearing, although I left the teleconference hearing connection open until 9:35 a.m. in order to enable the landlord to call into this teleconference hearing scheduled for 9:30 a.m. The tenant attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the tenant and I were the only ones who had called into this teleconference.

The tenant testified that she sent the landlord the Notice of Dispute Resolution Proceedings package to the landlord by registered mail on July 30, 2021 and provided a tracking number which is printed on the cover page of this decision. The landlord is deemed served with the Notice of Dispute Resolution Proceedings five days after mailing, on August 4, 2021 in accordance with sections 89 and 90 of the Act.

The tenant testified that she vacated the rental unit on August 31, 2021.

Preliminary Issue

I treat the tenant's choice to vacate the rental unit as the tenant's acceptance of the validity of the notice to end tenancy and for greater certainty, I make an order under section 44(1)(f) that the tenancy ended on August 31, 2021. As such, the tenant's application to cancel the notice to end tenancy is dismissed without leave to reapply.

The second portion of the tenant's application seeks that the landlord provide evidence that the arrears in rent are owed. I advised the tenant that if the landlord wants to pursue an order against her for unpaid rent then the landlord would be required to file

an application for dispute resolution of her own and prove to an arbitrator that the tenant has not paid the rent. Whether the tenant owes the landlord any arrears in rent would not be decided at today's hearing. As a result, the tenant's application seeking an order that the landlord comply with the *Act* is dismissed without leave to reapply.

Conclusion

The 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 Section 9.1(1) of the *Residential Tenancy Act*.

Dated: November 18, 2021

Residential Tenancy Branch