



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **CNR, DRI**

Introduction

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

- cancellation of the 10 Day Notice to End Tenancy for Unpaid Rent, pursuant to section 46; and
- disputation of a rent increase from the landlord, pursuant to section 42.

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 11:12 a.m. in order to enable the tenant to call into this teleconference hearing scheduled for 11:00 a.m. The landlord 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 landlord and I were the only ones who had called into this teleconference.

The landlord was advised that Rule 6.11 of the Residential Tenancy Branch Rules of Procedure prohibits the recording of dispute resolution hearings. The landlord testified that he was not recording this dispute resolution hearing.

The landlord confirmed his email addresses for service of this decision and order.

Preliminary Issue- Amendment

The landlord testified to the correct spelling of his last name which is the same spelling printed on the 10 Day Notice to End Tenancy for Unpaid Rent in question. Pursuant to section 64 of the *Act*, I amend the tenant's application for dispute resolution to correctly

spell the landlord's last name. The landlord testified to his legal name. The tenant's application switched the landlord's first and last name. Pursuant to section 64 of the *Act*, I amend the tenant's application to correctly state the landlord's name.

The tenant's application for dispute resolution lists the tenant's name as an additional landlord. I find on a balance of probabilities that this was a data entry error and pursuant to section 64 of the *Act*, I remove the tenant as a landlord.

Issues to be Decided

1. Is the tenant entitled to cancellation of the 10 Day Notice to End Tenancy for Unpaid Rent, pursuant to section 46 of the *Act*?
2. Is the tenant entitled to reversal of a rent increase, pursuant to section 43 of the *Act*?

Background and Evidence

While I have turned my mind to the documentary evidence and the testimony of the landlord, not all details of his submissions and arguments are reproduced here. The relevant and important aspects of the landlord's claims and my findings are set out below.

The landlord provided the following undisputed testimony. This tenancy began on September 6, 202 and ended on October 31, 2021. Monthly rent in the amount of \$1,185.00 was payable on the last day of each month. The tenant was responsible for 50% of hydro, cable and internet.

The landlord testified that the tenant did not pay October 2021's rent and was served with a 10 Day Notice to End Tenancy for Unpaid Rent (the "10 Day Notice"). The 10 Day Notice was entered into evidence. The landlord testified that he saw the tenant move out of the subject rental property on October 31, 2021 and when he came back to the property on November 3, 2021, he saw that it was empty.

Analysis

Rule 7 of the Residential Tenancy Branch Rules of Procedure provides in part as follows:

The dispute resolution hearing will commence at the scheduled time unless otherwise set by the arbitrator. If a party or their agent fails to attend the hearing,

the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.

The tenant failed to attend this hearing. Pursuant to Rule 7 of the Residential Tenancy Branch Rules of Procedure, I dismiss the tenant's application without leave to reapply.

I accept the landlord's undisputed testimony that the tenant was served with a 10 Day Notice for failure to pay October 2021's rent. I accept the landlord's undisputed testimony that the tenant did not pay October 2021's rent in the amount of \$1,185.00.

Section 55(1) and section 55(1.1) of the *Act* state:

55 (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 of notice to end tenancy*], 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 [*landlord's notice: non-payment of rent*], and the circumstances referred to in subsection (1) (a) and (b) of this section apply, the director must grant an order requiring the payment of the unpaid rent.

Upon review of the 10 Day Notice, I find that it meets the form and content requirements of section 52 of the *Act*.

Since I have dismissed the tenant's application and have found that the 10 Day Notice meets the form and content requirements of section 52 of the *Act*, I find that pursuant to section 55(1.1) of the *Act* the landlord is entitled to a monetary order for unpaid rent in the amount of \$1,185.00 for October 2021's rent. As this tenancy has already ended an Order of Possession is unnecessary.

Conclusion

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

I issue a Monetary Order to the landlord in the amount of \$1,185.00.

The landlord is provided with this Order in the above terms and the tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

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