



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, OLC
OPR-DR, MNR-DR, FFL

Introduction

This hearing dealt with cross Applications for Dispute Resolution filed by the parties under the *Residential Tenancy Act* (the “*Act*”). The matter was set for a conference call.

The Tenants’ Application for Dispute Resolution was made on September 9, 2021. The Tenants applied to cancel a 10-Day Notice to End Tenancy for Unpaid Rent (the “Notice”) dated October 2, 2021, and for an order that the Landlords comply with the *Act*.

The Landlord’s Application for Dispute Resolution was made on November 2, 2021. The Landlord applied for an order of possession to enforce 10-Day Notice for Unpaid Rent (the Notice) dated October 2, 2021, a monetary order for unpaid rent, and to recover the cost of filing the application.

Both the Landlords attended the conference call hearing; however, the Tenants did not. As the Tenants are also applicants in these proceedings, I find that the Tenants had been duly notified of the Notice of Hearing in accordance with the *Act*.

The Landlords were affirmed to be truthful in their testimony and were provided with the opportunity to present their evidence orally and in written and documentary form and to make submissions at the hearing.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

- Should the 10-Day Notice to End Tenancy be cancelled?
- If not, are the Landlords entitled to an order of possession pursuant to section 55 of the *Act*?
- Should the Landlords be ordered to comply with the *Act*?
- Are the Landlords entitled to a Monetary Order for unpaid rent?
- Are the Landlords entitled to the return of their filing fee?

Background and Evidence

While I have considered all of the accepted documentary evidence and the testimony of the parties, only the details of the respective submissions and/or arguments relevant to the issues and findings in this matter are reproduced here.

This hearing was scheduled for a teleconference hearing on this date.

Rule 7.1 of the Rules of Procedure stipulates that the hearing must commence at the scheduled time unless otherwise decided by the Arbitrator. Rule 7.3 of the Rules of Procedure stipulates that an Arbitrator may conduct the hearing in the absence of a party and may make a decision or dismiss the application, with or without leave to reapply.

I called into the hearing, and the line remained open while the phone system was monitored for 30 minutes and the only participants who called into the hearing during this time were the Landlords. Therefore, as the Tenants did not attend the hearing by 11:30 a.m., and the Landlords appeared and were ready to proceed, I dismiss the Tenants' application without leave to reapply.

At the outset of these proceedings, the Landlords were advised that only one page of the three-page Notice to end tenancy had been submitted into documentary evidence with their application. The Landlords were advised that the Notice could not be

cancelled or upheld without a copy of the complete three-page document being submitted into documentary evidence.

The Landlords were provided with an opportunity to submit a copy of the complete three-page Notice to the Residential Tenancy Branch, through the online evidence submission portal, during these proceedings. However, by 11:30 a.m. the Landlords had still not submitted a copy of the Notice into documentary evidence.

Analysis

Based on the above testimony and evidence, and on a balance of probabilities, I find as follows:

I find that the Tenants' application for Dispute Resolution has been abandoned.

As a copy of the complete Notice has not been submitted into documentary evidence for this processing, I find that I am unable to make a legal determination regarding the validity of this Notice. Therefore, I dismiss the Landlords' application for an order of possession to enforce the 10-Day Notice for Unpaid Rent dated October 2, 2021, and for a monetary order for unpaid rent with leave to reapply.

As it is an applicants responsibility to ensure that the required documents are submitted with their application, and the Landlords are applicants to this proceeding, and they were provided with additional time to submit the required documents to these proceedings and failed to do so, I find that I must dismiss the Landlords' application to recover the cost of filing this application without leave to reapply.

Conclusion

I dismiss the Tenants' application for Dispute Resolution without leave to reapply.

I dismiss the Landlords' application for an order of possession to enforce the 10-Day Notice for Unpaid Rent dated October 2, 2021, and for a monetary order for unpaid rent with leave to reapply.

I dismiss the Landlords' application to recover the cost of filing this application 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: January 21, 2022

Residential Tenancy Branch