



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR-DR, OPR-DR, FFL // MNRT, CNR

Introduction

This hearing dealt with two applications pursuant to the *Residential Tenancy Act* (the “**Act**”). The landlord’s application for:

- an order of possession for non-payment of rent based on a 10 Day Notice to End Tenancy for Unpaid Rent issued in November 2021 (the “**November Notice**”) pursuant to section 55;
- a monetary order for unpaid rent in the amount of \$750 pursuant to section 67; and
- authorization to recover the filing fee for this application from the tenants pursuant to section 72.

And the tenants’ application for:

- a monetary order for the cost of emergency repairs to the rental unit in the amount of \$2,500 pursuant to section 33; and
- the cancellation of a 10 Day Notice to End Tenancy for Unpaid Rent issued in September 2021 (the “**September Notice**”) pursuant to section 46.

This matter was reconvened from a prior hearing on January 21, 2022. I issued an interim decision setting out the reasons for the adjournment that same date (the “**Interim Decision**”). This decision should be read in conjunction with Interim Decision.

None of the parties attended the hearing. The tenants’ advocate (“**TC**”) and the landlord’s agent (“**SS**”) attended the hearing on behalf of their respective clients.

In the Interim Decision, I ordered the parties to submit additional documentary evidence to one another and to the Resident Tenancy Branch (the “**RTB**”). The attendees confirmed that each had served the other with their documentary evidence and received the others’ documentary evidence.

Among the documents submitted by the parties, were tables created by each side showing the tenants’ rent payments since the start of the tenancy. The tables differed slightly, however they both showed that as of the date both the September and the November Notices were served, the tenant was not actually in rental arrears.

As such, and with the consent of SS, I order that both Notices are cancelled and are of no force or effect. Accordingly, I also dismissed the landlord's application for a monetary order for unpaid rent and the application to recover the filing fee.

SS stated that the tenants had not actually incurred any cost of doing emergency repairs. She stated that the landlord had borne the cost of these repairs and had submitted documentary evidence confirming this. TC agreed.

As such, and with the consent of TC, I dismiss the tenants' application to recover the cost of emergency repairs.

As all the issues before me were resolved by consent at the outset of the hearing, I did not conduct a full hearing.

Prior to concluding the hearing, SS requested that I make an order that the landlord or his agents be permitted into the rental unit. She stated that in the past, the tenants have barred their entry. I advised her that no such application was before me so I could not make any order. However, I noted that section 29(1)(b) of the Act states:

Landlord's right to enter rental unit restricted

29(1) A landlord must not enter a rental unit that is subject to a tenancy agreement for any purpose unless one of the following applies:

(b) at least 24 hours and not more than 30 days before the entry, the landlord gives the tenant written notice that includes the following information:

- (i) the purpose for entering, which must be reasonable;
- (ii) the date and the time of the entry, which must be between 8 a.m. and 9 p.m. unless the tenant otherwise agrees;

I note that, if the tenants receive such a notice, they cannot refuse the landlord entry at the stated time. SS indicated that the landlord intended to post a notice of entry on the tenant's door on February 21, 2022, for entry on February 23, 2022. TC stated that she would advise the tenants of this after the hearing. I am satisfied that between TC advising the tenants on February 18, 2022 and the notice being posted on February 21, 2022, the tenants will have sufficient notice of the landlord's intention to enter the rental unit on February 23, 2022.

Conclusion

I dismiss the landlord's application, in its entirety, without leave to reapply.

I dismiss the tenants' application to recover the cost of emergency repairs, without leave to reapply.

I grant the tenants' application to cancel the September Notice. I cancel the November Notice. The tenancy shall continue.

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: February 18, 2022

Residential Tenancy Branch