



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **OLC, CNR, MNDCT, FFT**

Introduction

This hearing was scheduled to deal with a tenant's application for several remedies including:

- cancellation of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities;
- orders for the landlord to comply with the Act, regulations, or tenancy agreement; and,
- monetary compensation for damages or loss under the Act, regulations, or tenancy agreement.

The landlord and his daughter appeared for the hearing; however, there was no appearance on part of the tenant despite leaving the teleconference call open approximately 20 minutes.

The landlord confirmed receipt of the tenant's proceeding package and confirmed the tenant did not include any evidence with the proceeding package served to the landlord. Nevertheless, the landlord was prepared to respond to the matters raised by the tenant. Given the tenant's failure to appear, and the landlord's preparedness to proceed, I dismissed the tenant's Application for Dispute Resolution without leave to reapply.

Under section 55 of the Act, a landlord may be provided an Order of Possession and Monetary Order for unpaid rent where:

- 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.

[My emphasis underlined]

The landlord confirmed the tenant moved out of the rental unit in November 2021, after the rental unit flooded, and the landlord has regained possession of the rental unit. Accordingly, an Order of Possession is not required and I do not further consider providing one.

As for unpaid rent, the landlord indicated that seeks a Monetary Order for recovery of unpaid rent for October 2021 and November 2021.

I noted that I was not provided any documentary evidence by either party for this proceeding such as a copy of the tenancy agreement or a 10 Day Notice. The landlord's daughter confirmed there is a written tenancy agreement and a 10 Day Notice in their possession but they acknowledged they did not submit a copy of it to the Residential Tenancy Branch or serve a copy of it to the tenant as evidence to be relied upon at this hearing. Given the lack of documentary evidence and the absence of the tenant to corroborate certain facts so as to determine the landlord's entitlement to recovery of rent for October 2021 and November 2021, I declined to consider issuing the landlord a Monetary Order under the tenant's application.

I informed the landlord of his right to make his own Landlord's Application for Dispute Resolution if he seeks to pursue the tenant for monetary losses.

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 15, 2022

Residential Tenancy Branch