



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, RP
OPR-DR-PP, MNR-DR, FFL

Introduction

This hearing was convened by way of conference call concerning applications made by the tenant and by the landlord. The tenant's amended application seeks an order cancelling notices to end the tenancy for unpaid rent or utilities and for an order that the landlord make repairs to the rental unit or property. The landlord has applied for an Order of Possession and a monetary order for unpaid rent or utilities and to recover the filing fee from the tenant for the cost of the application. The landlord's application was made by way of the Direct Request process, which was referred to this participatory hearing joined to be heard with the tenant's application.

The tenant and the landlord attended the hearing and the landlord was accompanied by a person to assist and an Interpreter. The landlord gave affirmed testimony, and the landlord's Interpreter was affirmed to well and truly interpret these proceedings from the English language to the landlord's Native language and from the landlord's Native language to the English language to the best of the Interpreter's skill and ability.

At the commencement of the hearing the landlord's assistant advised that the tenant has been served with the landlord's evidentiary material, however the landlord received the tenant's evidence last night. The tenant did not dispute that. Any evidence that a party wishes me to consider must be provided to the other party. An applicant is required to provide the evidence to the Residential Tenancy Branch automated system or through a Service BC office, and to the respondent at least 14 clear days prior to the hearing. The landlord's assistant indicated that the tenant's evidence has not been provided with enough time to review it, and I declined to consider the tenant's evidence. All evidence of the landlord has been reviewed and is considered in this Decision.

Further, the Rules of Procedure require that multiple applications contained in a single application must be related, and the hearing did not address the tenant's application for an order that the landlord make repairs to the rental unit or property, and I dismiss that portion of the tenant's application with leave to reapply.

Issue(s) to be Decided

The issues remaining to be decided are:

- Has the landlord established that the 10 Day Notices to End Tenancy for Unpaid Rent or Utilities were given in accordance with the *Residential Tenancy Act*?
- Has the landlord established a monetary claim as against the tenant for unpaid rent?

Background and Evidence

The landlord testified that this month-to-month tenancy began 4 years ago and the tenant still resides in the rental unit. There is no written tenancy agreement, however rent in the amount of \$500.00 is payable on the 1st day of each month. The landlord previously had a manager and the landlord does not know if a security deposit had been paid. The rental unit is a motel room.

The landlord further testified that the tenant is currently in arrears of rent the sum of \$3,800.00 and \$1,200.00 of that is owed for some time prior to October, 2021. The tenant hasn't paid any rent from October, 2021 to February, 2022, but was not able to tell me what rent had been paid or when.

The landlord has provided only a partial page of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities. It is dated June 10, 2021 and contains an effective date of vacancy of June 21, 2021.

Analysis

Where a tenant disputes a notice to end a tenancy given by a landlord, the onus is on the landlord to establish that it was given in accordance with the *Residential Tenancy Act*. In this case, the landlord has not provided a full copy of any Notice given to the tenant, and therefore, I am not satisfied that any notice given was given in the approved form. The tenant's amended application seeks to cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated September 25, 2021 and one dated October

7, 2021 and one dated June 10, 2021. Since the landlord has not provided any Notices I dismiss the landlord's application. If rent remains unpaid, the landlord is at liberty to serve another notice to end the tenancy.

Conclusion

For the reasons set out above, the tenant's application for an order that the landlord make repairs to the rental unit or property is hereby dismissed with leave to reapply.

The landlord's application is hereby dismissed in its entirety without leave to reapply.

The 10 Day Notices to End Tenancy for Unpaid Rent or Utilities are hereby cancelled and the tenancy continues.

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 01, 2022

Residential Tenancy Branch