



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, OLC, MNDCT, PSF, AAT, LAT, DRI, RR, FFT

Introduction

This hearing was convened in response to an application and amendments by the Tenants pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order cancelling a notice to end tenancy - Section 46;
2. An Order for the Landlord’s compliance - Section 62;
3. A Monetary Order for compensation - Section 67;
4. An Order to provided services or facilities - Section 65;
5. An Order allowing access to the unit - Section 70;
6. An Order authorizing a lock change - Section 70;
7. An Order in relation to a disputed rent increase - Section 43;
8. An Order for a rent reduction - Section 65; and
9. An Order to recover the filing fee for this application - Section 72.

The Parties were each given full opportunity under oath to be heard, to present evidence and to make submissions. The Parties confirm that no recording devices are being used for the hearing.

Preliminary Matters

It was noted at the onset of the hearing that the Tenants provided copies of a notice to end tenancy for unpaid rent and a notice to end tenancy for cause but only made a claim to cancel the notice to end tenancy for unpaid rent. The Tenants confirm that their only claim to cancel a notice to end tenancy was in relation to unpaid rent. The Tenants

also state that they thought they included a claim to cancel a notice to end tenancy for cause in one of their amendments. The Landlord states that the Tenants were given a one month notice to end tenancy for cause dated December 29, 2021 and that they are not clear that the Tenants made any claim to cancel that notice. The Landlord states that they are not clear on what to expect at this hearing.

Rule 2.2 of the Residential Tenancy Branch Rules of Procedure provides that claims are limited to what is stated in the application. As no claim to cancel a notice to end tenancy for cause was included in the application or the amendments, as the Landlord is not clear that such a claim was being made for this hearing I find that this claim was not made and therefore may not be considered at this hearing.

Rule 2.3 of the Residential Tenancy Branch Rules of Procedure provides that claims made in an application must be related to each other and unrelated claims may be dismissed with or without leave to reapply. As the claims other than the claim to dispute a notice to end tenancy for unpaid rent are not related to the matter of whether the tenancy will end, I dismiss these claims with leave to reapply. Leave to reapply is not an extension of any limitation period. The Tenants' claim for recovery of the filing fee will be determined upon the determination of the Tenants' claim to cancel the notice to end tenancy for unpaid rent.

The Landlord confirms that they did not provide any evidence for this hearing. The Landlord states that they only received the Tenant's evidence package on March 24, 2022. The Tenant states that the package was given to the Landlord by posting the evidence on the door on March 15, 2022. Given the findings below I find that the matter of the service of the Tenants' evidence is not relevant.

Background and Evidence

The Landlord states that although the Tenants were given a 10 day notice to end tenancy for unpaid rent this rent was paid within the time allowed.

Issue(s) to be Decided

Are the Tenants entitled to a cancellation of the notice to end tenancy for unpaid rent?

Are the Tenants entitled to recovery of the filing fee?

Analysis

Section 46(4) of the Act provides that within 5 days after receiving a notice under this section, the tenant may pay the overdue rent, in which case the notice has no effect. Based on the Landlord's evidence that the overdue rent was paid within the time allowed I find that the notice to end tenancy for unpaid rent is no longer of any effect to end the tenancy and I cancel this notice. The tenancy continues until otherwise ended by the Parties.

As the Tenants paid the rent on time I consider that their claim to cancel the notice to end the tenancy for unpaid rent was not required. I therefore dismiss the claim for recovery of the filing fee.

Conclusion

The notice to end tenancy for unpaid rent is 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 Act.

Dated: March 31, 2022

Residential Tenancy Branch