



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

Introduction

This hearing was convened in response to applications by the landlord and the tenant.

The landlord's application is seeking orders as follows:

1. For an order of possession based on unpaid rent;
2. For a monetary order for unpaid rent; and
3. To recover the cost of filing the application.

The tenant's application filed on November 25, 2021, is seeking orders as follows:

1. To cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities;
2. To be allowed more time to dispute a One Month Notice to End Tenancy for Cause; and
3. For a monetary order for money owed or loss.

Both parties appeared, gave testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

Rule 2.3 of the Residential Tenancy Branch Rules of Procedure authorizes me to dismiss unrelated disputes contained in a single application. In these circumstances the tenant indicated several matters of dispute on the Application for Dispute Resolution, the most urgent of which is the application to set aside the Notice to End Tenancy. I find that not all the claims on this Application for Dispute Resolution are sufficiently related to be determined during these proceedings. I will, therefore, only consider the tenant's request to set aside the Notices to End Tenancy and the landlord's application for an

order of possession and unpaid rent. The balance of the tenant's application is dismissed, with leave to reapply.

Issue to be Decided

Should either of the notices to end tenancy be cancelled?

Is the landlord entitled to an order of possession based on unpaid rent?

Is the landlord entitled to a monetary order for unpaid rent?

Background and Evidence

The tenancy began on October 8, 2019. Rent in the amount of \$1,100.00 was payable on the first of each month. A security deposit of \$550.00 was paid by the tenant. During the tenancy the landlord lowered the rent to \$1,000.00 to assist the tenant during the state of emergency. Filed in evidence is a copy of the tenancy agreement.

The landlord stated that the tenant made their application to cancel the notices on November 25, 2021, and then just left on December 15, 2021, without notifying them. The landlord stated they do not need an order of possession; however, they want to rent for November or December 2021.

The tenant stated they should not be responsible to pay any rent for December 2021, because they normally pay rent in two different payments, and they vacated on December 15, 2021.

Analysis

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

Section 7(1) of the Act states that if a landlord or tenant does not comply with the Act, regulation, or tenancy agreement, the non-comply landlord or tenant must compensate the other for damage or loss that results.

Section 67 of the Act provides me with the authority to determine the amount of compensation, if any, and to order the non-complying party to pay that compensation.

- 26** (1) A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

In this matter, I do not need to consider whether the notices to end tenancy should be cancelled or if the landlord is entitled to an order of possession, as the tenancy ended when the tenant vacated the premises on December 15, 2021. Therefore, I dismiss this portion of their respective applications.

The evidence of the tenant was that they did not pay any rent for November or December 2021 and the tenant remained in the rental unit until December 15, 2021, when they left without given the landlord notice. I find the landlord is entitled to recover unpaid rent for November and December as rent was due on the 1st day of each month as stated in the tenancy agreement. Therefore, I find the landlord is entitled to recover unpaid rent in the amount of **\$2,000.00**.

I find that the landlord has established a total monetary claim of **\$2,100.00** comprised of the above described amount and the \$100.00 fee paid for this application.

I order that the landlord retain the security deposit of **\$550.00** in partial satisfaction of the claim and I grant the landlord(s) an order under section 67 of the Act for the balance due of **\$1,550.00**.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court. The **tenant is cautioned** that costs of such enforcement are recoverable from the tenant.

Conclusion

The tenant application to cancel the notices to end tenancy is dismissed. The balance of the tenant's application is dismissed with leave to reapply.

The landlord application for an order of possession is dismissed. The landlord is granted a monetary order for unpaid rent and may keep the security deposit in partial satisfaction of the claim.

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: March 17, 2022

Residential Tenancy Branch