



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Centurion Property Associates
Inc. and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes **CNR**

Introduction

This hearing dealt with an application filed by the tenant pursuant the *Residential Tenancy Act* (the “Act”) for an order to cancel a 10 Day Notice to End Tenancy for Unpaid Rent/Utilities pursuant to sections 46 and 55.

The tenant did not attend this hearing, although I left the teleconference connection open until 9:40 a.m. to enable the tenant to call into this hearing scheduled for 9:30 a.m. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord and I were the only ones who had called into this teleconference.

The landlord was represented at the hearing by counsel, HF and property manager DI. The landlord submits that they were not served with the tenant’s application for dispute resolution or the Notice of Dispute Resolution Proceedings although they were provided with the tenant’s evidence. They were first notified of the hearing when the Residential Tenancy Branch sent them an email reminding them to upload evidence. They contacted the Residential Tenancy Branch and were provided with a copy of the Notice of Dispute Resolution Proceedings by an information officer.

Despite not being served with the Notice of Dispute Resolution Proceedings package, the landlord was willing to have the merits of the tenant’s application heard.

Issue(s) to be Decided

Should the notice to end tenancy be upheld or cancelled?

If upheld, is the landlord entitled to a monetary order for unpaid rent?

Background and Evidence

The landlord gave the following testimony. The tenancy began on January 22, 2022. Rent was set at \$1,699.00 per month payable on the first day of each month. A copy of the tenancy agreement was provided as evidence by the landlord. Parking was not included in the rent but was scheduled as fee on a separate addendum. A security deposit of \$849.50 was collected by the landlord which the landlord continues to hold.

The tenant did not pay rent on March 1, 2022. On March 10th, the landlord served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent/Utilities by posting a copy to the tenant's door. A signed, witnessed proof of service document was provided as evidence, as was a copy of the notice to end tenancy. The notice indicates the tenant failed to pay \$1,699.00 that was due on the first day of March 2022.

The landlord served the tenant with a subsequent notice to end tenancy for unpaid rent on April 7, 2022, by posting a copy to the tenant's door. The tenant failed to pay April's rent as well as failed to pay the arrears for March. A copy of the second notice to end tenancy and proof of service was also provided as evidence.

The landlord submits that the tenant did not pay the arrears in rent since being served with the notices to end tenancy and has remained occupying the rental unit.

Analysis

I deem the 10 Day Notice to End Tenancy for Unpaid Rent/Utilities served on the tenant on March 13, 2022, three days after it was posted to the tenant's door pursuant to sections 88 and 90 of the Act. The tenant filed an application to dispute the landlord's notice on March 14th, within the five days as required under section 46.

Section 26 of the Act states that 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. Although the tenant filed an application to dispute the landlord's notice to end tenancy, the tenant did not attend the hearing to provide testimony or present evidence to indicate she had any right under the Act to deduct all or a portion of the rent. Consequently, based on the undisputed evidence of the landlord, I am satisfied the tenant was obligated to pay rent in the amount of \$1,699.00 per month on the first day of March and failed to do so.

The tenant failed to pay the rent identified as owing in the 10 Day Notice to End Tenancy for Unpaid Rent/Utilities within five days of receiving the notice. In accordance

with section 46(5) of the Act, the tenant's failure to do so has led to the end of the tenancy on March 23, 2022, the effective date of the notice as corrected under section 53. As the effective date on the Notice has passed and the tenant continues to reside in the rental unit, I uphold the notice to end tenancy and find that the landlord is entitled to an Order of Possession, effective 2 days after service upon the tenant.

Section 55(1.1) states that if the director upholds a landlord's notice to end tenancy for unpaid rent, the director must grant an order requiring the payment of unpaid rent to the landlord. I grant the landlord a monetary order for unpaid rent for the months of March and April 2022 in the amount of \$3,398.00 [$\$1,699.00 \times 2 = \$3,398.00$]

Pursuant to the offsetting provisions contained in section 72 of the Act, I allow the landlord to retain the tenant's security deposit in its entirety in partial satisfaction for a portion of the monetary award granted. [$\$3,398.00 - 849.50 = \$2,548.50$]

Conclusion

I grant an Order of Possession to the landlord effective **2 days after service on the tenant**.

I issue a monetary order in the landlord's favour in the amount of **\$2,548.50**.

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: April 25, 2022

Residential Tenancy Branch