



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

Tenant: CNR

Landlord: OPR-DR, MNR-DR; FFL

Introduction and Preliminary Matters

Pursuant to section 58 of the *Residential Tenancy Act* (the Act), I was designated to hear two crossed applications regarding a residential tenancy dispute.

The Tenant applied on December 3, 2021 for:

- an order to cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, dated December 3, 2021 (the 10 Day Notice).

The Landlord applied on December 29, 2021 for:

- an order of possession, having issued the 10 Day Notice;
- a monetary order for unpaid rent; and
- the filing fee.

On February 9, 2022, the Landlord made an application through the Direct Request process for an order of possession and a monetary order for unpaid rent based on the same 10 Day Notice, dated December 3, 2021, that is the subject of the current proceeding.

In the March 10, 2022 decision on the Direct Request application, the tenancy was ended on the corrected effective date of the 10 Day Notice, December 16, 2021, and the Landlord was granted an order of possession and a monetary order for \$900.00 for rent owed for December 2021.

As the Landlord has already been granted an order of possession, I dismiss his December 29, 2021 claim for an order of possession. The only remaining claims are:

- a monetary order for unpaid rent; and
- the filing fee.

The hearing began promptly, and was attended by the Landlord, but not the Tenant. The Landlord was given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses; he was made aware of Residential Tenancy Branch Rule of Procedure 6.11 prohibiting recording dispute resolution hearings.

Rule 7.3 states that if a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply. As the Tenant did not attend to present their claims and the tenancy has already ended, I dismiss the Tenant's application.

The Landlord testified he did not serve his Notice of Dispute Resolution Proceeding (NDRP) on the Tenant. The principles of natural justice require the respondent to be made aware of the claims against them. Section 89 of the Act sets out the ways by which an applicant may give a respondent the dispute resolution application. As the Landlord has failed to notify the respondent of their claims, the Landlord's application is dismissed.

Conclusion

The Tenant's and Landlord's applications are dismissed.

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 8, 2022

Residential Tenancy Branch