



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, LRE, RPP, OLC
OPR-DR, MNR-DR, FFL

Introduction

This hearing was convened by way of conference call concerning applications made by the tenants and by the landlord. The tenants have applied for an order cancelling a notice to end the tenancy for unpaid rent or utilities; an order limiting or setting conditions on the landlord's right to enter the rental unit; an order that the landlord return the tenants' personal property; and for an order that the landlord comply with the *Residential Tenancy Act*, regulation or tenancy agreement.

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 tenants. 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 tenants' application.

The landlord and both tenants attended the hearing.

During the course of the hearing I determined that the landlord has not served any of the landlord's evidence to the tenants. Where a party wishes to rely on evidentiary material, the party must also provide it to the other party or parties. Since the landlord has not done so, I decline to consider any of the landlord's evidence.

The tenants have not provided any evidence.

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*. Given that none of the landlord's evidence can be considered, I am not satisfied that the landlord has established that any Notice given was given in the approved form. Therefore, I cancel the Notice and the tenancy continues. If rent remains unpaid, the landlord is at liberty to issue another notice to end the tenancy.

Since the tenants have not provided any evidence, I dismiss the balance of the tenants' application with leave to reapply.

Conclusion

For the reasons set out above, the landlord's application is hereby dismissed.

The Notice to end the tenancy is hereby cancelled and the tenancy continues.

The balance of the tenants' application is hereby dismissed with leave to reapply.

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: May 17, 2022

Residential Tenancy Branch