



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR-MT, FFT

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* ("Act") for:

- more time to make an application to cancel the landlords' Ten Day Notice to End Tenancy for Unpaid Rent or Utilities ("10 Day Notice"), pursuant to section 66;
- cancellation of the landlords' 10 Day Notice, pursuant to section 46; and
- authorization to recover the \$100.00 filing fee paid for this application, pursuant to section 72.

Landlord WY ("owner") did not attend this hearing, which lasted approximately 19 minutes from 9:30 a.m. to 9:49 a.m. Landlord NP ("landlord") and the tenant attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord and the tenant confirmed their names and spelling. They both provided their email address for me to send a copy of this decision to both parties after the hearing.

The landlord said that he was an agent for the owner, the other landlord-respondent named in this application. He stated that he had permission to represent the owner at this hearing (collectively "landlords"). He confirmed that the owner owns the rental unit and provided the rental unit address.

Rule 6.11 of the Residential Tenancy Branch (“RTB”) *Rules of Procedure* (“Rules”) does not permit recording of this hearing by any party. At the outset of this hearing, the landlord and the tenant both separately affirmed, under oath, that they would not record this hearing.

I explained the hearing and the settlement processes, and the potential outcomes and consequences, to both parties. I informed them that I could not provide legal advice to them. Both parties had an opportunity to ask questions, which I answered. Neither party made any adjournment or accommodation requests.

Both parties were provided additional time during this hearing to discuss settlement, but the tenant stated that he did not want to settle his application with the landlords.

The landlord confirmed receipt of the tenant’s application for dispute resolution hearing package. In accordance with section 89 of the *Act*, I find that both landlords were duly served with the tenant’s application.

The landlord stated that the landlords did not submit any evidence for this hearing.

Pursuant to section 64(3)(c) of the *Act*, I amend the tenant’s application to correct the spelling of the landlord’s full name. Both parties consented to this amendment during this hearing.

The tenant stated that he did not provide a copy of the 10 Day Notice as evidence for this hearing. He said that no one at the RTB told him to do so. He confirmed receipt of the notice of dispute resolution proceeding (“NODRP”) from the RTB and said that he had a copy in front of him during this hearing. He agreed that the NODRP says that it is important for an applicant to have evidence to support the application, at the top of page 2. He claimed that he did not think the 10 Day Notice was evidence.

The landlord said that he did not provide a copy of the 10 Day Notice as evidence for this hearing because it was the tenant’s application, so the tenant should have done so.

I informed both parties that without a copy of the 10 Day Notice submitted by either party as evidence for this hearing, I could not determine whether it complies with section 52 of the *Act*. I notified them that I could not make a decision or issue an order of possession, without a copy of the 10 Day Notice.

Both parties had ample time to provide a copy of the 10 Day Notice, as the tenant's application was filed on April 19, 2022, and this hearing occurred on June 28, 2022, more than two months later.

I informed both parties that the tenant's application for more time to cancel the landlords' 10 Day Notice and cancellation of the 10 Day Notice, was dismissed with leave to reapply. I notified them that the tenant's application to recover the \$100.00 filing fee was dismissed without leave to reapply. Both parties confirmed their understanding of same.

I informed the tenant that he was at liberty to file a new application and pay a new filing fee, if he wants to pursue his application in the future. The tenant confirmed his understanding of same. He said that he is aware there are deadlines to dispute the 10 Day Notice, so he would file another application as soon as possible.

I cautioned the tenant regarding deadlines and filing an application in a timely manner. I informed him that if he was unsuccessful in this application, at a future RTB hearing, a two (2) day order of possession might be issued against him by an Arbitrator. The tenant confirmed his understanding of same and stated that he was prepared to deal with the above consequence.

The tenant stated that he wanted to reapply for his application. The landlord did not dispute same or raise an objection. I do not find prejudice to either party in making the above decision to dismiss the tenant's substantive application with leave to reapply. The tenant has leave to reapply and the landlord may respond to same, since neither party provided a copy of the 10 Day Notice that is the subject of this application, in order for me to make a decision about it, despite having ample time to do so, prior to this hearing.

Conclusion

The tenant's application to recover the \$100.00 filing fee is dismissed without leave to reapply.

The remainder of the tenant's application is 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: June 28, 2022

Residential Tenancy Branch