



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, RR, RP, PSF, LRE, OLC

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution. A hearing by telephone conference was held on December 19, 2022, at 9:30 AM. The Tenant applied for multiple remedies, pursuant to the *Residential Tenancy Act (the Act)*.

The Tenant attended the teleconference hearing; however, the Landlord did not. The Tenant testified that he sent his Notice of Dispute Resolution Proceeding and evidence package by registered mail on August 18, 2022. Proof of mailing was provided at the hearing. The Tenant stated that the Landlord provided him with a fake address on the tenancy agreement, so he was unable to send mail to that address. However, the Tenant stated that the Landlord is also the Landlord for the rental unit next door. The Tenant stated that the Landlord gave his current address for service to the occupant next door, which was then recently passed along to the Tenant himself. The Tenant stated he sent the above noted package to the Landlord, via the address he received from the occupant next door. Mail tracking information shows the package was successfully delivered. Pursuant to section 90 of the Act, I find the Landlord is deemed to have received this package 5 days after it was sent by mail.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Preliminary and Procedural Issues

The Tenant is seeking multiple remedies under multiple sections of the *Act*, a number of which were not sufficiently related to one another. Section 2.3 of the Rules of Procedure

states that claims made in an Application must be related to each other and that arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.

After looking at the list of issues and based on the evidence before me, I find the most pressing and related issues in this application is related to the payment/non-payment of rent and the order of possession (whether or not the tenancy will continue, or end, based on the 10 Day Notice issued in July 2022.) As a result, I exercise my discretion to dismiss, with leave to reapply, all of the grounds in both applications with the exception of the following grounds:

- an order of possession based on a 10-Day Notice (the Notice) for unpaid rent or utilities and whether or not the Tenant is entitled to have this Notice cancelled

The Tenant stated he has partially moved out of the rental unit. The Tenant stated that he has a few items left in the rental unit, and he still has the keys, and also an active utility bill, but he has also started renting a new place because of the condition of the washroom (mold, rot).

Issue to be Decided

- Should the Notice be cancelled?

Background, Evidence, and Analysis

The Tenant stated that he received the 10 Day Notice on or around July 28, 2022.

In the matter before me, the Landlord has the onus of proof to prove that the Notice is valid. I find that the Landlord was sufficiently served with the Notice of Dispute Resolution Proceeding and failed to attend the hearing to prove the allegation within the Notice.

Therefore, as the Landlord did not attend the hearing by 9:40 AM on December 19, 2022, I cancel the Notice.

I Order the tenancy to continue until ended in accordance with the Act.

Section 72 of the *Act* gives me authority to order the repayment of a fee for an application for dispute resolution. As the Tenant was successful in their application, I

order the Landlord to repay the \$100.00 fee that the Tenant paid to make application for dispute resolution.

Conclusion

The Tenant's application is successful. The Notice issued by the Landlord dated is cancelled.

The tenancy will continue until ended in accordance with the Act.

The Tenant is granted a monetary order pursuant to Section 67 in the amount of **\$100.00**. This order must be served on the Landlord. If the Landlord fails to comply with this order the Tenant may file the order in the Provincial Court (Small Claims) and be enforced as an order of that Court.

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: December 20, 2022

Residential Tenancy Branch