



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNRL, FFL, OLC, FFT

Introduction and Preliminary Matters

This hearing dealt with cross-applications filed by the parties. On September 2, 2022, the Landlord applied for a Dispute Resolution proceeding seeking an Order of Possession based on a 10 Day Notice to End Tenancy for Unpaid Rent (the “Notice”) pursuant to Section 46 of the *Residential Tenancy Act* (the “Act”), seeking a Monetary Order for unpaid rent pursuant to Section 67 of the *Act*, and seeking to recover the filing fee pursuant to Section 72 of the *Act*.

On October 21, 2022, the Tenant applied for a Dispute Resolution proceeding seeking an Order to comply pursuant to Section 62 of the *Act* and seeking to recover the filing fee pursuant to Section 72 of the *Act*.

On November 4, 2022, these Applications were set down for a Dispute Resolution Proceeding on January 20, 2023, at 1:30 PM.

The Tenant attended the hearing; however, the Landlord did not attend at any point during the 11-minute teleconference. At the outset of the hearing, I informed the Tenant that recording of the hearing was prohibited and she was reminded to refrain from doing so. As well, the Tenant provided a solemn affirmation.

Rule 7.1 of the Rules of Procedure stipulates that the hearing must commence at the scheduled time unless otherwise decided by the Arbitrator. The Arbitrator may conduct the hearing in the absence of a party and may make a Decision or dismiss the Application, with or without leave to re-apply.

I dialed into the teleconference at 1:30 PM and monitored the teleconference until 1:41 PM. Only the Tenant dialed into the teleconference during this time. 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 I was the only other person who had called into this teleconference.

As the onus is on the party issuing the Notice to substantiate the reasons for service of the Notice, and as the Landlord has not appeared at the hearing, I am not satisfied that the Landlord has properly substantiated the grounds for ending the tenancy. As such, I find that the Landlord's Application for Dispute Resolution has been abandoned, and I am not satisfied of the validity of the Notice. Consequently, the Notice of July 29, 2022, is cancelled and of no force and effect.

The Tenant advised that she did not serve her Notice of Hearing package to the Landlord. As such, her Application has been dismissed with leave to reapply.

As the Landlord was not successful in their Application, I find that the Landlord is not entitled to recover the \$100.00 filing fee.

As the Tenant did not serve the Notice of Hearing package to the Landlord, the Tenant was not successful in her Application. As such, I find that the Tenant is not entitled to recover the \$100.00 filing fee.

Conclusion

Based on the above, I dismiss the Landlord's Application for Dispute Resolution without leave to reapply. In addition, I hereby Order that the 10 Day Notice to End Tenancy for Unpaid Rent of July 29, 2022, to be cancelled and of no force or effect.

Furthermore, I dismiss the Tenant's Application for Dispute Resolution 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: January 20, 2023

Residential Tenancy Branch