



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

A matter regarding WESLEY PLACE- REALSTAR
MANAGEMENT and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNR, OLC, FFT

Introduction

On February 12, 2023, the Tenants made an Application for Dispute Resolution under the *Residential Tenancy Act* (“the Act”) to cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, dated February 7, 2023.

The Landlord’s agent (“the Landlord”) attended the hearing; however, the Tenants did not. The line remained open while the phone system was monitored for ten minutes and the Tenants did not call into the hearing during this time. Therefore, as the Applicants did not attend the hearing by 9:40 am, I dismiss their application without with leave to reapply.

The Landlord testified that the Tenants never served them with the Notice of Proceeding for this hearing. The Landlord was provided the hearing information when they contacted the RTB to inquire about a dispute of the 10 Day Notice. The Landlord stated that the Landlord attended an earlier hearing on February 28, 2023 where they received an order of possession for the rental unit. The Landlord provided a copy of the Order of Possession. The Landlord stated that the Tenants have vacated the rental unit as of February 24, 2023.

The Landlord does not require an Order of Possession for the rental unit based on the 10 Dy Notice; however, the Landlord is seeking a monetary order for the unpaid February 2023 rent.

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.

Issue to be Decided

- Is the Landlord entitled to a monetary order for unpaid rent?

Background and Evidence

The Landlord testified that the tenancy began on September 15, 2020 as a fixed term tenancy that was renewed in October 2021. Rent in the amount of \$1,750.80 is due to be paid to the Landlord by the first day of the month. The Landlord provided a copy of the tenancy agreement.

The Landlord testified that the Tenants failed to pay all the rent for February 2023 when it was due under the tenancy agreement.

The Landlord testified that the Tenant was served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated February 7, 2023, ("the 10 Day Notice"). The 10 Day Notice provides that the Tenants have failed to pay rent in the amount of \$337.64 which was due on February 1, 2023. The Landlord provided a copy of the 10 Day Notice.

The Notice informed the Tenants that the Notice would be cancelled if the rent was paid within five days. The Notice also explains that the Tenants have five days to dispute the Notice. The Tenants disputed the 10 Day Notice on February 12, 2023, within the required time period. The Tenants vacated the rental unit on or around February 24, 2023.

The Landlord testified that the Tenants did not pay all the February 2023 rent due under the tenancy agreement within 5 days of receiving the 10 Day Notice. The Landlord testified that the Tenant have not paid the outstanding February 2023 rent. The Landlord provided a copy of a rent ledger showing the rent payments made by the Tenants.

The Landlord seeks a monetary order for \$337.64 in unpaid rent.

Analysis

Section 26 of the Act states that a tenant must pay the rent when it is due under the tenancy agreement, whether or not the Landlord complies with the Act, the regulations, or the tenancy agreement, unless the Tenant has a right under this Act to deduct all or a portion of the rent.

Section 55 of the Act provides if a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy regarding non payment of rent, and the director dismisses the tenant's application or upholds the landlord's notice; the director must grant to the landlord an order of possession of the rental unit and an order requiring the payment of the unpaid rent.

Based on the evidence before me, the testimony of the Landlord and Tenant, and on a balance of probabilities, I find that the Tenants failed to pay all of the rent due under the tenancy agreement for February 2023 within five days of receiving the 10 Day Notice.

The Tenants failed to attend this hearing. I have dismissed the Tenant's application to cancel the 10 Day Notice dated February 7, 2023. Under section 55 of the Act, when a tenant's application to cancel a notice to end tenancy is dismissed and I am satisfied that the notice to end tenancy complies with the requirements under section 52 regarding form and content, I must grant the Landlord an order of possession and a monetary order for unpaid rent.

I find that the tenancy ended on February 24, 2023, when the Tenants vacated the rental unit.

I find that the 10 Day Notice complies with the requirements for form and content and I find that the Landlord is entitled to a monetary order for the unpaid rent. I find that the Tenants owes the Landlord unpaid rent in the amount of \$337.64. I grant the Landlord a monetary order for \$337.64.

Conclusion

The Tenants failed to pay the rent due under the tenancy agreement within five days of receiving a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities.

The Tenants failed to attend the hearing and their application is dismissed. The Landlord is granted a monetary order for unpaid February 2023 rent in the amount of \$337.64.

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: March 16, 2023