



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes CNR, FFT

Introduction

This hearing dealt with the tenants' application, filed on November 11, 2022, pursuant to the *Residential Tenancy Act* ("Act") for:

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

The two applicant tenants did not attend this hearing, which lasted approximately 11 minutes. The respondent landlord attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

This hearing began at 9:30 a.m. and ended at 9:41 a.m. I monitored the teleconference line throughout this hearing. 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 the landlord and I were the only people who called into this teleconference.

The landlord confirmed her name, spelling, and the rental unit address. She said that she is a property manager for the rental unit. She stated that she had permission to represent the owner of the rental unit, at this hearing.

Rule 6.11 of the Residential Tenancy Branch ("RTB") *Rules of Procedure (Rules)* does not permit recordings of any RTB hearings by any participants. At the outset of this hearing, the landlord affirmed, under oath, that she would not record this hearing.

I explained the hearing process to the landlord. She had an opportunity to ask questions, which I answered. She did not make any adjournment or accommodation requests.

The landlord stated that she received a copy of the tenants' application for dispute resolution hearing package. In accordance with section 89 of the *Act*, I find that the landlord was duly served with the tenants' application.

Preliminary Issue – Dismissal of Tenants' Application

Rule 7.3 of the RTB *Rules* states the following:

7.3 Consequences of not attending the hearing: If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.

In the absence of any appearance by the tenants, I order the tenants' entire application dismissed without leave to reapply.

Analysis

Pursuant to section 55 of the *Act*, if I dismiss the tenants' application to cancel a 10 Day Notice, the landlord is entitled to an order of possession, provided that the notice meets the requirements of section 52 of the *Act* and the landlord provides sufficient evidence of same.

Pursuant to section 55 of the *Act*, the landlord is entitled to a monetary order for unpaid rent without filing a separate application, provided that the 10 Day Notice meets the requirements of section 52 of the *Act* and the landlord provides sufficient evidence of same.

At the outset of this hearing, the landlord affirmed that the tenants vacated the rental unit, prior to them filing this application. She said that she did not require an order of possession against the tenants because she already took back possession. She claimed that she did not submit any evidence regarding unpaid rent for this hearing. She stated that she intended to file a future application for damages and unpaid rent against the tenant.

I notified the landlord about the following information during this hearing. Neither party provided a copy of the 10 Day Notice as evidence for this hearing. The tenants moved out, the landlord took back possession of the rental unit, and the landlord did not require an order of possession against the tenants. The landlord did not provide any evidence of unpaid rent, including a rent ledger or other documentary information for this hearing. The landlord did not provide a monetary order worksheet or breakdown of rent, for this hearing. The landlord intends to file a future RTB application for unpaid rent and damages, against the tenants.

For the above reasons, I informed the landlord that I would not issue an order of possession or a monetary order to her, against the tenants. She affirmed her understanding of same.

Conclusion

The tenants' entire application is dismissed without leave to reapply.

The landlord is not issued an order of possession or a monetary order for unpaid rent, against the tenants.

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 27, 2023

Residential Tenancy Branch