



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes CNR

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenants filed under the Residential Tenancy Act (the “Act”), to cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the “Notice”), issued on January 12, 2023.

Both parties appeared, gave testimony, and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to relevant facts and issues in this decision.

Issue to be Decided

Should the Notice be cancelled?

Background and Evidence

The tenant acknowledged that they received the Notice on January 13, 2023. The tenant acknowledged that the rent of \$2,200.00 listed in the Notice was not paid because their brother the co-tenant was in an accident and could not pay their portion of the rent. Filed in evidence is a copy of the Notice that complies with section 52 of the Act.

The landlord stated that this is a joint tenancy and both tenants are responsible to ensure the rent is paid and they have explained that to the tenants. The landlord stated the rent listed in the Notice was not paid and the tenants continued to fail to pay all rent

owed. The landlord stated that the current unpaid rent is the amount of \$4,400.00. The landlord seeks an order of possession and a monetary order for the unpaid rent.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

In this case, the tenant AB is a co-tenant with their brother DB under a single tenancy agreement. Co-tenants have equal rights under their agreement and are jointly and severally responsible for meeting its terms unless the tenancy agreement states otherwise. "Jointly and severally" means that all co-tenants are responsible, both as one group and as individuals, for complying with the terms of the tenancy agreement.

While I accept the tenant DW was in an accident at some point before the Notice was issued and applied for unemployment insurance on November 22, 2022, by the supporting evidence filed in evidence; however, that was over four months ago. DW has not paid their portion of the rent and has caused both tenants to be in rent arrears that equal the amount of \$4,400.00.

Neither of the tenants paid the outstanding rent listed in the Notice of \$2,200.00 as required by the Act within 5 days of receiving the Notice. I find the Notice was valid and remains in full force and effect. Therefore, I dismiss the tenants' application to cancel the Notice.

As the tenant's application is dismissed, I find the landlord is entitled to an order of possession, pursuant to section 55 of the Act.

Order of possession for the landlord

55 (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant to the landlord an order of possession of the rental unit if

- (a) the landlord's notice to end tenancy complies with section 52 *[form and content of notice to end tenancy]*, and
- (b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

(1.1) If an application referred to in subsection (1) is in relation to a landlord's notice to end a tenancy under section 46 *[landlord's notice]*:

non-payment of rent], and the circumstances referred to in subsection (1) (a) and (b) of this section apply, the director must grant an order requiring the payment of the unpaid rent.

I find that the landlord is entitled to an order of possession, pursuant to section 55 of the Act, effective **two days** after service on the tenant. This order may be filed in the Supreme Court and enforced as an order of that Court. The **tenants are cautioned** that costs of such enforcement are recoverable from the tenants.

I find that the landlord is entitled to monetary order for the unpaid rent, pursuant to section 55(1.1) of the Act in the amount of \$4,400.00. This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court. The **tenants are cautioned** that costs of such enforcement are recoverable from the tenants.

Conclusion

The tenants' application is dismissed. The landlord is granted an order of possession and a monetary order for the unpaid rent.

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 28, 2023

Residential Tenancy Branch