



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, CNC, DRI, RR, LRE, OLC, FFT

Introduction

This hearing dealt with the tenant's application 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;
- cancellation of the landlord's One Month Notice to End Tenancy for Cause ("1 Month Notice"), pursuant to section 47;
- an order regarding a disputed additional rent increase, pursuant to section 43;
- an order allowing the tenant to reduce rent for repairs, services, or facilities agreed upon but not provided, pursuant to section 65.
- an order restricting the landlord's right to enter the rental unit, pursuant to section 70;
- an order requiring the landlord to comply with the *Act*, *Residential Tenancy Regulation* or tenancy agreement, pursuant to section 62; and
- authorization to recover the filing fee paid for this application, pursuant to section 72.

The applicant tenant did not attend this hearing. The respondent landlord and her agent attended this hearing and were each 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 were provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord, her agent, and I were the only people who called into this teleconference.

The landlord confirmed the names and spelling for her and her agent. She stated that she co-owns the rental unit with her agent, who she said is her husband. She explained that her agent had permission to represent her at this hearing. She provided the rental unit address. She provided her mailing address for me to send this decision to her after the hearing.

Rule 6.11 of the Residential Tenancy Branch (“RTB”) *Rules of Procedure (“Rules”)* does not permit recordings of an 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 and her agent. They had an opportunity to ask questions, which I answered. They did not make any adjournment or accommodation requests.

Preliminary Issue – Dismissal of Tenant’s Application

The landlord stated that she did not receive a copy of the tenant’s application for dispute resolution hearing package. She said that she found out about this hearing from the RTB, when they called to ask if she wanted to cancel this hearing.

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 tenant, I order the tenant’s entire application dismissed without leave to reapply. I informed the landlord and her agent of my decision during this hearing.

Analysis

Pursuant to section 55 of the *Act*, if I dismiss the tenant’s 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 tenant vacated the rental unit. She said that she did not require an order of possession against the tenant because she already took back possession of the rental unit.

The landlord claimed that she submitted evidence regarding this application. Neither party provided a copy of the 10 Day Notice as evidence for this hearing. The tenant moved out, the landlord took back possession of the rental unit, and the landlord does not require an order of possession against the tenant. The landlord did not provide documentary evidence of unpaid rent for this hearing.

For the above reasons, I informed the landlord that I would not issue an order of possession or a monetary order to the landlord, against the tenant. I notified her that she was at liberty to file an application for unpaid rent, if she wanted to pursue same in the future. She affirmed her understanding of same.

Conclusion

The tenant's 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 tenant.

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: April 25, 2023

Residential Tenancy Branch