



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes CNR, FFT

Introduction

On December 11, 2023, the Tenant 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 December 6, 2023.

The matter was set for a conference call hearing. The Landlord attended the teleconference hearing; however, the Tenant did not. The line remained open while the phone system was monitored for twelve minutes, and the Tenant did not call into the hearing during this time. Therefore, as the Applicant did not attend the hearing by 11:12 am, I dismiss the Tenants application to cancel the 10 Day Notice without leave to reapply.

The Landlord stated that the Tenant called her 30 minutes prior to the hearing to make a deal to resolve the dispute rather than attending the hearing. The Landlord declined.

The Landlord provided with an opportunity to ask questions about the hearing process. And was provided with the opportunity to present affirmed oral testimony and to make submissions during the hearing.

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.

Issues to be Decided.

- Has the Tenant failed to pay rent when due under the tenancy agreement??
- Is the Landlord entitled to an order of possession for the rental unit and a monetary order for unpaid rent?

Background and Evidence

The Landlord and Tenant testified that the tenancy began on October 25, 2022, on a month-to-month basis. Rent in the amount of \$1,300.00 is due to be paid to the Landlord by the first day of the month. The Landlord and Tenant provided a copy of the tenancy agreement.

The Landlord testified that the Tenant failed to pay all the rent for December 2022 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 December 6, 2022, ("the 10 Day Notice"). The Landlord testified that the Tenant was served with the 10 Day Notice by attaching it to the Tenant's door on December 6, 2022.

The 10 Day Notice states that the Tenant has failed to pay December rent in the amount of \$900.00 which was due on December 1, 2022.

The Notice informed the Tenant that the Notice would be cancelled if the rent was paid within five days. The Notice also explains the Tenant had five days to dispute the Notice. The Tenant disputed the 10 Day Notice on December 11, 2022, within the required time period. The Tenant failed to attend the hearing to pursue the dispute.

The Landlord testified that the Tenant did not pay the rent due under the tenancy agreement within 5 days of her receiving the 10 Day Notice.

The Landlord testified that the Tenant has not paid the \$900.00 owing for December 2022 rent and has not paid the rent owing under the tenancy agreement for January, March, and April 2023.

The Landlord wants to end the tenancy and is seeking an order of possession for the rental unit and a monetary order for \$4,800.00 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 on a balance of probabilities, I find that the Tenant disputed the 10 Day Notice but failed to attend the hearing to pursue the dispute. The Tenant's application is dismissed without leave to reapply.

I find that the Tenant failed to pay the rent due under the tenancy agreement within five days of receiving the 10 Day Notice. I find that the Tenant has breached the Act and fundamentally breached the tenancy agreement. In accordance with section 68(2) of the Act, I find that the tenancy has ended effective the date of this hearing.

Under section 55 of the Act, when a tenants 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.

I find that the 10 Day Notice complies with the requirements for form and content, and I find that the Landlord is entitled to an order of possession effective 2 (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 Tenant is cautioned that costs of such enforcement are recoverable from the Tenant.

I find that the Tenant owes the Landlord unpaid rent in the amount of \$4,800.00. I grant the Landlord a monetary order for \$4,800.00.

Conclusion

The Tenant 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 and failed to attend the hearing. The tenancy has ended.

The Landlord is granted an order of possession effective two (2) days after service on the Tenant and the Landlord is granted a monetary order for unpaid rent in the amount of \$4,800.00.

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 20, 2023

Residential Tenancy Branch