

## **DECISION**

Dispute Codes      CNR, MNRT, FFT

### Introduction

This hearing dealt with tenant's January 12, 2023 Application for Dispute Resolution filed under the *Residential Tenancy Act* (Act) to cancel a 10-Day Notice to End Tenancy for Unpaid Rent or Utilities (Notice) issued on January 8, 2023. The tenant also filed against the landlord for reimbursement of \$7,000.00 in emergency repairs and reimbursement of their filing fee.

### Issues to be Decided

- Should the landlord reimburse the tenant for emergency repair costs?
- Does the Notice end the tenancy?
- Does the Tenant owe unpaid rent?

### Background and Evidence

The rental unit is a double-wide 1970s mobile home and the tenant said he began living there in 2019 when the previous tenant moved out. The landlord agreed the tenant's rent is \$800.00 per month. The tenant paid rent irregularly in lump sum cash payments, for which the landlord never gave a receipt.

The landlord said the tenant last paid rent for August 2022 and they gave the Notice to the tenant on January 8, 2023, with the move out date of January 31, 2023. The Notice is signed and dated. The Notice indicates failure to pay rent in the amount of \$4800 due January 1, 2023.

The tenant states he paid rent up to the end of September 2022.

The tenant reported doing \$7,000.00 in emergency repairs. The landlord agreed the tenant had done work on the rental unit and the property, but the tenant did not contact the landlord about the work and did not approve it. The tenant referred to a letter they wrote in January 2023 to the landlord and included photos of repairs to the waterlines and heating costs.

### Analysis

- Should the landlord reimburse the tenant for emergency repair costs?

Emergency repairs are addressed in section 33 of the Act. A tenant cannot be reimbursed for emergency repairs unless the tenant has first demonstrated that repairs are:

- urgent,
- necessary for the health or safety of anyone or for the preservation or use of residential property, and
- made for the purpose of repairing
  - major leaks in pipes or the roof,
  - damaged or blocked water or sewer pipes or plumbing fixtures, or the primary heating system,
  - damaged or defective locks that give access to a rental unit, or
  - the electrical systems.

The Act also says the tenant must make at least 2 attempts to contact the landlord to make the repairs and give the landlord reasonable time to make the repairs. If the landlord does not make the repairs, the tenant can make the repairs and then claim reimbursement by giving the landlord a written account of the emergency repairs with a receipt for each amount claimed. If the landlord does not reimburse the tenant for the repairs, the tenant may deduct the cost of the repairs from rent.

The tenant provided photographs of water lines and other parts of the rental unit as well as hearing bills. But the tenant did not substantiate that:

- emergency repairs were required
- the tenant asked the landlord for emergency repairs
- the landlord refused to make the repairs
- there are receipts for \$7,000.00 in repairs.

In the absence of this information the tenant cannot be reimbursed for emergency repairs.

- Does the Notice end the tenancy?

As the tenant stopped paying rent and did not demonstrate the emergency repairs were a lawful reason to withhold rent, I find the landlord had reason to give the Notice and it has been properly completed.

During the hearing the landlord stated that they would be satisfied if the tenant moved out at the end of May, so the effective date of the order of possession will be May 31, 2023.

- Does the Tenant owe unpaid rent?

As the tenant's application to cancel the notice is dismissed, the landlord is entitled to a monetary order for unpaid rent. The tenant admitted they had not paid for October, November, December, January, February, March, April and May. I award the landlord \$6,400.00.

As the tenant was not successful with their application, the tenant is not entitled to return of their filing fee.

### Conclusion

The claims in the tenant's application are dismissed.

The landlord is granted an order of possession effective May 31, 2023. The landlord should serve the order to the tenant immediately. Should the tenant fail to move out by May 31, 2023, the landlord may enforce the order in Supreme Court.

The landlord is granted a monetary award for \$6,400.00 and should serve the order to the tenant immediately. Should the tenant fail to pay, the landlord may enforce the order in Smalls Claims Court.

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: May 15, 2023