



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, PSF

Introduction

This hearing was convened by way of conference call concerning an application made by the tenant seeking an order cancelling a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities and for an order that the landlord provide services or facilities required by the tenancy agreement or the law.

The landlord and the tenant attended the hearing and each gave affirmed testimony. The parties were permitted to question each other and to give submissions.

No issues with respect to service or delivery of documents or evidence were raised, and all evidence provided has been reviewed and is considered in this Decision.

The Rules of Procedure indicate that multiple applications contained in a single application must be related, and the hearing focused on the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities.

Issue(s) to be Decided

Has the landlord established that the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated January 14, 2023 was issued in accordance with the *Residential Tenancy Act*?

Background and Evidence

The landlord testified that this tenancy began almost a year ago, and the tenant still resides in the rental unit. There is no written tenancy agreement, however rent in the amount of \$550.00 is payable on the 1st day of each month. No security deposit or pet

damage deposit were collected by the landlord, and no move-in condition inspection report was completed. The rental unit is a house.

The landlord further testified that a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities was served to the tenant, and a copy of pages 1 and 2 of the 3-page notice has been provided by the tenant for this hearing. It is dated January 14, 2023 and contains an effective date of vacancy of January 31, 2023. The reason for issuing it states that the tenant failed to pay rent in the amount of \$550.00 that was due on September 20, 2022 and unpaid utilities in the amount of \$50.00 following written demand on January 23, 2023.

The landlord dealt with another tenant who no longer lives in the rental unit. The tenant is currently in arrears of rent the sum of \$1,100.00; no rent has been paid for April or May, 2023. The tenant paid another guy who moved in, but he took the money and disappeared.

The tenant testified that the tenancy started in November, 2021; the tenant was on the lease agreement with another person, and the tenant did not receive a copy. Another person took over and the landlord agreed. That person started paying the rent, and the tenant paid \$550.00 to the landlord and continued to pay that amount each month. Rent for April was paid, but not for May. The tenant received some advice to not pay May's rent.

The tenant received only 2 pages of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities.

Analysis

Where a tenant disputes a notice to end a tenancy given by a landlord the onus is on the landlord to establish that it was given in accordance with the *Residential Tenancy Act*. The law also states that any notice to end a tenancy given by a landlord must be in the approved form.

In this case, the landlord has not provided any evidentiary material. The tenant has provided the first 2 pages only of a 3-page Notice and testified that only 2 pages were served by the landlord.

Since the landlord has not demonstrated that all pages were served, I cannot be satisfied that the notice given was in the approved form. Therefore, I cancel the 10 Day

Notice to End Tenancy for Unpaid Rent or :Utilities and the tenancy continues until it has ended in accordance with the law.

The tenant was not afforded the opportunity to testify with respect to the application for an order that the landlord provide services or facilities required by the tenancy agreement or the law. I dismiss that portion of the tenant's application with leave to reapply.

Conclusion

For the reasons set out above, the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated January 14, 2023 is hereby cancelled and the tenancy continues until it has ended in accordance with the law.

The tenant's application for an order that the landlord provide services or facilities required by the tenancy agreement or the law is hereby dismissed with leave to reapply.

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 11, 2023

Residential Tenancy Branch