



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes CNR-MT, LRE, OLC, FFT

Introduction

The tenant applied on February 4, 2023 for:

- (i) an order cancelling a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice") pursuant to section 46(4)(b) of the *Residential Tenancy Act* (the "Act");
- (ii) more time to dispute the Notice pursuant to section 66 of the Act;
- (iii) an order to suspend or set conditions on the landlord's right to enter the rental unit under section 70 of the Act;
- (iv) an order for the landlord to comply with the Act under section 62 of the Act; and
- (v) authorization to recover the cost of the filing fee under section 72 of the Act.

The landlord attended the hearing. No one dialled in on behalf of the tenant during the hearing, which lasted from 9:30 A.M. to 9:57 A.M.

Preliminary Issue - Unrelated Claims

Rules of Procedure 2.3 states that claims made in an application for dispute resolution must be related to each other. Arbitrators may use their discretion to dismiss unrelated claims.

It is my determination that the claim regarding the Notice and the recovery of the filing fee is not sufficiently related to the tenant's other claims to warrant that they be heard together. I exercise my discretion to dismiss the tenant's other claims with leave to reapply and will deal only with the cancellation of the Notice (and the related request for recovery of the filing fee).

Preliminary Issue – landlord already has possession of rental unit

The landlord affirmed that the tenant left the rental unit on February 25, 2023 and the landlord currently has possession of the rental unit. The current application before me to cancel the Notice is moot since the landlord already has possession of the rental unit.

Section 62(4)(b) of the Act states that an application should be dismissed if the application or part of an application for dispute resolution does not disclose a dispute that may be determined under the Act. I exercise my authority under section 62(4)(b) of the Act to dismiss the tenant's application to cancel the Notice.

Issues

1. Is the landlord entitled to a monetary order for unpaid rent?
2. Is the tenant entitled to recover the cost of the filing fee?

Background and Evidence

In reaching this decision, I have considered all relevant evidence that complied with the *Rules of Procedure*. Only the necessary oral and documentary evidence that helped resolve the issues of the dispute and explain the decision is included below.

The tenancy began October 1, 2022 and ended on February 25, 2023. Rent was \$2,200.00 due on the first day of the month. The landlord currently retains a \$1,100.00 security deposit. There is a copy of the written tenancy agreement in evidence.

The landlord affirmed that:

- the tenant has not paid any rent starting February 2023;
- the tenant has outstanding utility payments totalling \$608.00, which corresponds to the period between November 2022 to February 2023.

Analysis

Section 55(1.1) of the Act provides that, if a tenant makes an application to dispute a *10 Day Notice to End Tenancy for Unpaid Rent*, the landlord will be entitled to an order requiring the payment of the unpaid rent if:

- (a) the *10 Day Notice to End Tenancy for Unpaid Rent* complies with section 52 of the Act [form and content of notice to end tenancy]; and
- (b) the tenant's application is dismissed.

In addition, RTB Policy Guideline 3 provides that a tenant is not liable to pay rent after a tenancy has ended.

In the present case, since the tenant already left the rental unit, the tenant's application to cancel the Notice is dismissed. I have reviewed the Notice and it complies with the form and content requirements of section 52 of the Act. Therefore, the landlord is entitled to an order for unpaid rent under section 55(1.1) of the Act.

The landlord's undisputed evidence shows that the tenant (i) has not paid any rent starting February 2023; and (ii) has outstanding utility payments totalling \$608.00, which corresponds to the period between November 2022 to February 2023. Since the tenancy ended on February 25, 2023, the tenant will not be liable for any unpaid rent after this date pursuant to RTB Policy Guideline 3. Therefore, the landlord is entitled to \$2,200.00 as unpaid rent for the month of February 2023 in addition to the outstanding utility charges of \$608.00, which represents utility payments up to February 2023. The tenant is ordered to pay \$2,808.00 in unpaid rent and utilities to the landlord.

Pursuant to sections 38 and 72 of the Act, the landlord is ordered to retain the \$1,100.00 security deposit as partial satisfaction of the payment order. A monetary order for the remaining amount of \$1,708.00 is attached to this Decision and must be served on the tenant.

Since the tenant was not successful in its application, the tenant's application to recover the cost of the filing fee under section 72 of the Act is dismissed.

Conclusion

The application is dismissed without leave to reapply. The landlord is granted a monetary order in the amount of \$1,708.00.

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: May 02, 2023

Residential Tenancy Branch