



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes CNR, MNDCT, RR, OLC, FT, OPR, MNR, FF

Introduction

This hearing was convened in response to applications by the landlord and the tenant

The landlord's application is seeking orders as follows:

1. For an order of possession for unpaid rent;
2. For a monetary order for unpaid rent; and
3. To recover the cost of filing the application.

The tenant's application is seeking orders as follows:

1. To cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "Notice") issued on March 2, 2023;
2. For monetary compensation for monetary loss or other money owed;
3. To reduce rent for repairs, services or facilities agreed upon but not provided;
4. To have the landlord comply with the Act; and
5. To recover the cost of the filing the application.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and make submissions at the hearing.

Rule 2.3 of the Residential Tenancy Branch Rules of Procedure authorizes me to dismiss unrelated disputes contained in a single application. In these circumstances the tenant indicated several matters of dispute on the Application for Dispute Resolution, the most urgent of which is the application to set aside the Notice. I find that not all the claims on this Application for Dispute Resolution are sufficiently related to be determined during these proceedings. I will, therefore, only consider the tenant's

request to set aside the Notice and to recover the filing fee at these proceedings. The balance of the tenant's application is dismissed, with leave to reapply.

As the landlord's application is directly related to the Notice, and I must consider section 55 of the Act, I will consider all issues within the landlord's application.

Issue to be Decided

Should the Notice be cancelled?

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order for unpaid rent?

Background and Evidence

The tenancy began on February 1, 2021. Rent in the amount of \$800.00 was payable on the first of each month. A security deposit of \$350.00 was paid by the tenant. A copy of the tenancy agreement was filed in evidence. The addendum to the agreement shows that the rent shall be paid on the first day of each month by interact e-transfer, unless otherwise agreed to by the landlord and tenant in writing.

The parties agreed that the landlord subject to this hearing took possession of the property on January 31, 2023.

The parties agreed that the tenant was served with the Notice on March 2, 2023, which indicated rent for March 2023 in the amount of \$800.00 was due. Filed in evidence is a copy of the Notice which complies with section 52 of the Act.

The tenant testified that they were permitted to pay February 2023 rent by etransfer to a temporary email; however, they were told this was only a onetime option.

The tenant testified that they did not pay March 2023, rent because the landlord was in breach of the tenancy agreement as they would not provide them with an email address to send their etransfer.

The landlord's agent testified that on January 3, 2023, they informed the tenants that they would have to pay rent by cheque or money order, and they do not accept cash payment. The agent stated the tenant made no effort to accommodate their request. The agent stated that their bank was not able to accommodate etransfers, so they had to change banks in order to do this, which the tenant was notified on March 10, 2023.

The agent stated that even after the tenant received that required information they have made no effort to pay rent for March, April and May 2023.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

In this case, I accept the tenancy agreement requires rent to be paid by e-transfer unless otherwise agreed to by both parties. I accept the rental premises was just recently purchased and the new landlord took possession on January 31, 2023, and had yet not made suitable arrangements for etransfer. However, I find it highly prejudicial to the tenant to end the tenancy based on unpaid rent for March 2023, when the landlord did not provide the tenant with an email address for the tenant to be able to send the rent. This took away the tenant's right to pay the rent on the first of the month and took away the tenant's rights to pay the rent within 5 days of receiving the Notice.

While I accept the landlord on January 3, 2023, requested the rent to be paid by cheque or money order; however, that is contrary to the terms of the tenancy agreement before me. It was the landlord's responsibility to provide the tenant with at least a temporary email address to accept the rent for March 2023. I find the tenant's breach of the Act of failing to pay rent would not have occurred if the landlord did not breach the term of the tenancy agreement first, by failing to provide an email address for the etransfer. Therefore, I grant the tenant's application and cancel the Notice and dismiss the landlord's application for an order of possession.

However, the tenant was provided with the etransfer information on March 10, 2023. The tenant no longer has a valid reason to not pay rent. The tenant admitted that they have failed to pay rent for March, April and May 2023. I find the tenant breached the Act. Therefore, I grant the landlord a monetary order for the unpaid rent in the amount of **\$2,400.00**.

As the tenancy is to continue until legally ended, I find it appropriate to make the following Order against the tenant.

I Order the tenant to pay the outstanding rent of **\$2,400.00** to the landlord no later than May 6, 2023. Rent is to be sent by etransfer using the email address and password, noted in the March 10, 2023, letter. I have also noted this information on the covering page of this decision.

Should the tenant fail to pay the rent as I have ordered, the landlord is at liberty to issue a new 10 Day Notice to End Tenancy for Unpaid Rent or Utilities.

As both parties were successful at least with a portion of their application, I decline to award the filing fee to either party.

Conclusion

The tenant's application to cancel the Notice is granted. The landlord is granted a monetary order for unpaid rent for March, April and May 2023. I Order the tenant to pay all outstanding rent owed to the landlord no later than May 6, 2023, failure to pay the rent could result in the tenancy ending.

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 04, 2023

Residential Tenancy Branch