



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes CNR, DRI, LAT, OLC, FFT

Introduction

Under section 58 of the Residential Tenancy Act (the “Act”), this hearing dealt with the tenant’s April 3, 2023, application to the Residential Tenancy Branch 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 Act;
- (ii) an order to dispute a rent increase under section 41 of the Act;
- (iii) authorization to change the locks to the rental unit under section 31 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.

Issues

1. Is the tenant entitled to a reduction in rent?
2. Is the tenant entitled to an order cancelling the Notice?
3. Is the tenant entitled to change the locks to the rental unit?
4. Is the tenant entitled to an order for the landlord to comply with the Act?
5. 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 June 30, 2022. Rent is \$4,000.00 due on the first day of the month. The landlord currently retains a \$2,000.00 security deposit. There is a copy of the written tenancy agreement in evidence.

The landlord served the Notice on April 3, 2023 by posting a copy to the door of the rental unit. Page two of the Notice indicates that the tenant did not pay rent in the amount of \$4,000.00 that was due on April 1, 2023. All pages of the Notice were served and submitted into evidence.

The landlord affirmed that:

- the tenant is currently \$10,370.00 in rental arrears.
- the tenant has a history of not paying rent, which started in July 2022.
- while the landlord and tenant signed a new tenancy agreement in June 2022, which increased the rent from \$4,000.00 to \$4,250.00, the landlord subsequently agreed to reduce the rent back to \$4,000.00. The landlord considers the rent to be \$4,000.00 for the entirety of the new lease.

The tenant affirmed that:

- the tenant is currently \$10,370.00 in rental arrears.
- the tenant is in rental arrears because the tenant had run into some financial issues. In particular, some of the tenant's housemates were unable to pay their share of rent. The tenant was not able to cover for the tenant's housemates.
- the tenant did not want to pay any rent for April and May 2023 as the tenant did not know where the rent was going and because of issues with the landlord's rental receipts.

Analysis

As the landlord has already agreed to reduce the rent back to the original figure of \$4,000.00, the tenant's application to dispute a rent increase under section 41 of the Act is dismissed.

Section 26 of the Act requires tenants to pay rent the day it is due unless they have a legal right to withhold rent. Section 46(1) of the Act allows landlords to end a tenancy with a *10 Day Notice to End Tenancy for Unpaid Rent* on any day rent remains unpaid after the day rent is due.

The landlord's evidence shows that the tenant has been accruing unpaid rent from July 2022. The landlord and tenant both agree that the tenant is currently \$10,370.00 in rental arrears. Therefore, I find on a balance of probabilities that the Notice was given for a valid reason. I also find that the Notice complies with the form and content requirements of section 52. As a result, the tenant's application to cancel the Notice is dismissed.

Based on the above findings, the landlord is granted an order of possession under section 55(1) of the Act. A copy of the order of possession is attached to this Decision and must be served on the tenant.

Since the application relates to a section 46 notice to end tenancy, the landlord is entitled to an order for unpaid rent under section 55(1.1) of the Act. Therefore, the tenant is ordered to pay \$10,370.00 in unpaid rent to the landlord.

Pursuant to sections 38 and 72 of the Act, the landlord is ordered to retain the \$2,000.00 security deposit as partial satisfaction of the payment order. A monetary order for the remaining amount of \$8,370.00 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.

The tenant's other claims relate to the tenant's ongoing possession of the rental unit. I dismiss these remaining claims because the tenancy has ended.

Conclusion

The application is dismissed without leave to reapply. The landlord is granted an order of possession and a monetary order in the amount of \$8,370.00.

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 31, 2023

Residential Tenancy Branch