



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes CNR, RP, OLC

Introduction

This hearing dealt with the Tenant's April 27, 2023 application under the *Residential Tenancy Act* (the *Act*) for:

- Cancellation of a 10-Day Notice to End Tenancy for Unpaid Rent (the Notice) issued on April 27, 2023, pursuant to section 46
- An order requiring the landlord to carry out repairs, pursuant to sections 32 and 62
- An order to have the landlord comply with the *Act*, regulating and/or tenancy agreement

Preliminary Issue

- Severing Claims

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 is the application to set aside the Notice. I find that the additional claim on this Application for Dispute Resolution does not sufficiently relate to be determined during these proceedings. Therefore, only the Tenant's request to set aside the Notice will be dealt with below. The balance of the Tenant's application is dismissed, with leave to reapply.

Issues to be Decided

- Should the Notice be cancelled?
- If not, is the Landlord entitled to an Order of Possession and a Monetary Order for unpaid rent?

Facts and Analysis

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to relevant facts and information in this decision.

The parties confirmed the following details with respect to the tenancy:

- The tenancy began September 1, 2022 and is for a fixed term until August 31, 2023 then the tenancy would continue on a month-to-month basis
- Rent was \$2,800 per month and due on the first of the month
- The Landlord collected and still retains a \$1,400 security deposit and a \$500 pet damage deposit

The Landlord's Agent SH (the Landlord's Agent) testified that they served the Notice by posting it to the door of the rental unit on April 27, 2023 and the Tenant testified they received the Notice on that date. The Notice is included in the evidence and does not list a move out date. For a notice to end tenancy to be effective it must be in writing and must meet the requirements listed in s. 52 of the *Act*, including stating the move out date.

Both parties testified that only one 10-Day notice was ever given to the Tenant. The Landlord's Agent testified that the move-out date was penciled in afterwards onto the form as it is not filled in until they serve the notice. While s. 53 of the *Act*, gives me the authority to correct an incorrect move out date to the first opportunity that complies with the *Act*, it does not give me the authority to add a date when one is not listed.

I find that the Notice does not comply with section 52 of the *Act*; however, should the Landlord seek compensation for unpaid rent they can make an application for dispute resolution within the statutory time limit.

Conclusion

The Notice that was served on April 27, 2023 is cancelled. The Notice is of no force or effect. This tenancy is to continue until ended in accordance with the *Act*.

The rest of the Tenant's application is 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: June 20, 2023

Residential Tenancy Branch