



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes CNR, MNDCT, FFT

Introduction

Under section 58 of the Residential Tenancy Act (the “Act”), this hearing dealt with the tenant’s April 21, 2023, application to the Residential Tenancy Branch for:

- (i) an order to cancel a 10 Day Notice to End Tenancy for Unpaid Rent (the “Notice”) pursuant to section 46(4)(b) of the Act;
- (ii) an order for compensation for monetary loss or other money owed under section 67 of the Act; and
- (iii) authorization to recover the cost of the filing fee under section 72 of the Act.

The tenant attended the hearing. No one dialled in on behalf of the landlord during the hearing, which lasted from 9:30 A.M. to 9:46 A.M. The tenant testified under oath that the tenant served a Notice of Dispute Resolution Proceeding on the landlord by registered mail and submitted mail tracking information. It is my finding that the landlord was served with the required notice in compliance with the Act.

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 tenant’s claim regarding the Notice is not sufficiently related to the tenant’s other claim to warrant that they be heard together. I exercise my discretion to dismiss the tenant’s other claim with leave to reapply and will deal only with the Notice and the filing fee.

Issue(s) to be Decided

1. Is the tenant entitled to an order cancelling the Notice?
2. If not, is the landlord entitled to an order of possession?
3. Is the tenant entitled to recover the cost of the filing fee?

Analysis

As the onus is on the landlord to prove the validity of the Notice and the landlord has not attended the hearing to substantiate the Notice, I am cancelling the Notice.

Since the tenant was successful in its application to cancel the Notice, the tenant's application to recover the cost of the filing fee under section 72 of the Act is granted. Pursuant to section 72 of the Act, the tenant is ordered to withhold \$100.00 in rent for recovery of the filing fee.

Conclusion

The tenant's application to cancel the Notice is granted and the tenancy shall continue until it is ended in accordance with the Act.

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 02, 2023

Residential Tenancy Branch