

## **DECISION**

### **Introduction**

This hearing dealt with two tenant's Applications for Dispute Resolution (applications) seeking remedy under the *Residential Tenancy Act* (Act) for the following:

1. Cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated May 30, 2023 (10 Day Notice),
2. Monetary claim of \$11,157.26,
3. Suspend conditions on the landlord's right to enter the rental unit,
4. Provide services or facilities required by tenancy agreement or law,
5. Order landlord to comply with Act, Regulation or tenancy agreement,
6. Rent reduction.

The two filing fees were waived so will not be considered. The parties listed on the cover page of this decision attended and were affirmed. The hearing process was explained. Words utilizing the singular shall also include the plural and vice versa where the context requires.

Although the tenants claimed that they were not served with documentary evidence, I find they are deemed served based on Canada Post registered mail tracking number RN 658 963 432 CA, which confirms that on May 30, 2023, the landlord served the tenant. Pursuant to section 90 of the Act, documents sent by registered mail are deemed served 5 days after they are mailed.

### **Preliminary and Procedural Matters**

Residential Tenancy Branch (RTB) Rules of Procedure (Rules) Rule 2.3 authorizes me to dismiss unrelated disputes contained in a single application. In this circumstance the tenant indicated many matters across 2 applications, the most urgent of which is the application to cancel the 10 Day Notice. I find that not all the claims on the application are sufficiently related to be determined during this proceeding. I will, therefore, only

consider the tenant's request to cancel the 10 Day Notice at this proceeding. The balance of the tenant's application is dismissed, with leave to re-apply.

I also find that the tenants' application was mostly illegible and that before submitting a new application to ensure that all writing or printing is legible in the future, or their application may be dismissed without leave to reapply.

The parties confirmed their email addresses at the outset of the hearing and stated that they understood that the decision would be emailed to them.

### Issue to be Decided

- Should the 10 Day Notice be cancelled?

### Background and Evidence

A copy of the tenancy agreement was submitted in evidence. The tenancy began on December 1, 2022. Monthly rent is \$2,100 due on the 28<sup>th</sup> day of the month prior.

A copy of the 10 Day Notice was submitted in evidence. The effective vacancy date listed on the 10 Day Notice was June 10, 2023. The 10 Day Notice indicates that \$603.79 in unpaid utilities was owed following a demand letter dated February 26, 2023 (Demand Letter).

The Demand Letter was not submitted in evidence. In addition, the utility bills were not submitted in evidence.

### Analysis

Based on the documentary evidence and the testimony of the parties provided during the hearing, and on the balance of probabilities, I find the following.

**10 Day Notice issued by landlord – Section 46(6) of the Act applies and states:**

46(6) If

- (a) a tenancy agreement requires the tenant to pay utility charges to the landlord, **and**
- (b) **the utility charges are unpaid more than 30 days after the tenant is given a written demand for payment of them,**

the landlord may treat the unpaid utility charges as unpaid rent and may give notice under this section.

[emphasis added]

Given the wording below, the Demand Letter is a critical piece of evidence that I find the landlord has failed to present in evidence to support that the tenant was served with the Demand Letter. In addition, I have no Demand Letter before me to confirm the amount owed in unpaid utilities and have no utility bills before me to support the amount owed.

As a result of the above, **I cancel** the 10 Day Notice as I find the landlord has failed to prove that the Demand Letter was served and that there are unpaid utility bills. At the very least, I would expect a copy of the Demand Letter and the unpaid utility bills to support that the 10 Day Notice was lawful.

Based on the above, **I ORDER** the tenancy to continue until ended in accordance with the Act pursuant to section 62(3) of the Act.

### Conclusion

The 10 Day Notice dated May 30, 2023, issued by the landlord has been cancelled and is of no force or effect. The landlords are at liberty to issue a new 10 Day Notice and if the Demand Letter can not be located, the landlord must also issue a new Demand Letter.

The tenancy shall continue until ended in accordance with the Act.

This decision will be emailed to both parties as indicated above.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: July 19, 2023

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Residential Tenancy Branch