



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes CNR-MT, OPR-DR, MNR-DR, FFL

Introduction

This hearing was convened in response to applications by the landlords and the tenants.

The landlords' application is seeking orders as follows:

- For an order of possession based on unpaid rent;
- For a monetary order for unpaid rent; and
- To recover the cost of filing the application.

The tenants' application is seeking orders as follows:

- To be allowed more time to dispute a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "Notice") issued on June 3, 2023; and
- To recover the cost of 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 to cross-examine the other party, and make submissions at the hearing.

Issue(s) to be Decided

Should the tenants be allowed more time to dispute the Notice?
Are the landlords entitled to an order of possession?
Are the landlords entitled to a monetary order for unpaid rent?

Background and Evidence

The tenancy began on December 1, 2022. Rent in the amount of \$1,800.00 payable on the first of each month. A security deposit of \$900.00 was paid by the tenants.

The tenants acknowledged in their application that they received the Notice on June 3, 2023. The tenant stated that they did not pay the outstanding rent as noted in the Notice. The tenant confirmed they did not pay rent for June 2023, July 2023, and August 2023.

The landlord testified that the tenants did not pay rent for June 2023, July 2023, and August 2023.

Analysis

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

Although the tenants applied for more time to dispute the Notice, I find I do not need to consider this portion of the tenants' application because based on the testimony of the tenant, the Notice is valid as the tenants failed to pay the rent owed and have failed to pay subsequent rent for July and August 2023. I find the tenants breached the Act when they failed to pay. Therefore, I dismiss the tenants' application to cancel the Notice.

As the tenants' application is dismissed, I find the landlords are entitled to an order of possession and a monetary order, pursuant to section 55 of the Act.

Order of possession for the landlord

55 (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant to the landlord an order of possession of the rental unit if

- (a) the landlord's notice to end tenancy complies with section 52 *[form and content of notice to end tenancy]*, and
- (b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

(1.1) If an application referred to in subsection (1) is in relation to a landlord's notice to end a tenancy under section 46 [*landlord's notice: non-payment of rent*], and the circumstances referred to in subsection (1) (a) and (b) of this section apply, the director must grant an order requiring the payment of the unpaid rent.

I find that the landlords are entitled to an order of possession, pursuant to section 55 of the Act, effective **two days** after service on the tenants. This order may be filed in the Supreme Court and enforced as an order of that Court. The **tenants are cautioned** that costs of such enforcement are recoverable from the tenants.

I find that the landlords are entitled to a monetary order for the unpaid rent and late fees, pursuant to section 55 (1.1) of the Act and section 7(1) (d) and 7 (2) of the Regulation in the amount of **\$5,475.00** and **\$100.00** to recover the cost for filing for the total amount of **\$5,575.00**.

I order that the landlords retain the security deposit of **\$900.00** in partial satisfaction of the claim and I grant the landlords an order under section 67 of the Act for the balance due of **\$4,675.00**. This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court. The **tenant is cautioned** that costs of such enforcement are recoverable from the tenant.

Conclusion

The tenants' application is dismissed. The landlords are granted an order of possession and a monetary order as stated above.

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: August 22, 2023

Residential Tenancy Branch