



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **CNR, CNC, PSF, OLC**

Introduction

This hearing was convened as a result of the Tenants' Application for Dispute Resolution, made on October 24, 2022 (the "Application"). The Tenants applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- an order cancelling a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities;
- an order cancelling a One Month Notice to End Tenancy for Cause;
- an order that the Landlord provide a service or facility; and
- an order that the Landlord comply with the Act.

The hearing was scheduled for 11:00 A.M. on January 23, 2022 as a teleconference hearing. The Tenant J.M. attended the hearing at the appointed date and time. No one appeared for the Landlords. The conference call line remained open and was monitored for 10 minutes before the call ended. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed from the online teleconference system that the Tenant and I were the only persons who had called into this teleconference.

The Tenant testified that they served the Landlords with the Notice of Hearing by Canada Post Registered Mail on November 9, 2022. The Tenant provided the tracking information during the hearing, which has been reproduced on the cover page of this decision. Pursuant to Section 89 and 90 of the Act, the Landlord is deemed to have been served with the Tenants' Application five days later, on November 14, 2022.

Preliminary Matters

The Residential Tenancy Branch Rules of Procedure permit an Arbitrator the discretion to dismiss unrelated claims with or without leave to reapply. For example, if a party has applied to cancel a notice to end tenancy, or is applying for an order of possession, an Arbitrator may decline to hear other claims that have been included in the application and the Arbitrator may dismiss such matters with or without leave to reapply.

I find that the most important issue to determine is whether or not the tenancy is ending based on the 10 Day Notice for Unpaid Rent, and/or the One Month Notice for Cause. The Tenants' request for the Landlord to provide a service or facility, and for the Landlord to comply with the Act are dismissed with leave to reapply.

I note that Section 55 of the *Act* requires that when a tenant submits an Application for Dispute Resolution seeking to cancel a notice to end tenancy issued by a landlord, I must consider if the landlord is entitled to an order of possession, and an order requiring the payment of the unpaid rent, if the Application is dismissed and the landlord has issued a notice to end tenancy that is compliant with the *Act*. Having made the above finding, I will now turn my mind to whether the Landlord is entitled to an Order of Possession and a monetary order for unpaid rent, pursuant to section 55 of the *Act*.

As one attended the hearing for the Landlords to testify in support of the 10 Day Notice and the One Month Notice for Cause, I find that the Landlord would not be entitled to an order of possession. As such, I cancel the Notices being disputed by the Tenants. I order that the tenancy continue until it is ended in accordance with the Act.

Conclusion

No one attended the hearing for the Landlords. The Notices to End Tenancy that the Tenants have applied to dispute are cancelled. The tenancy will 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: January 23, 2023

Residential Tenancy Branch