



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing

A matter regarding CAPREIT LIMITED PARTNERSHIP and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes T: CNR, MNDCT, RR, RP, PSF, OLC
 L: OPR-DR, MNR-DR, FFL

Introduction

This hearing dealt with the Tenants' Application for Dispute Resolution under the *Residential Tenancy Act* (the Act) for:

- an order to cancel a 10 Day Notice for Unpaid Rent;
- an order to allow the Tenant to reduce rent for repairs, services or facilities agreed upon but not provided, under sections 27 and 65 of the Act;
- an order for the Landlord to make repairs to the rental unit under sections 32 and 62 of the Act;
- an order that the Landlord comply with the Act, regulations and/or tenancy agreement;
- an order for monetary compensation for monetary loss; and,
- an order requiring the Landlord to provide services or facilities required by the tenancy agreement or law.

The Landlord's application requested:

- an order of possession for the rental unit;
- a monetary order for unpaid rent; and,
- authorization to recover the filing fee for this application from the Landlord under section 72 of the Act.

Tenant C.B. and Tenant G.C. attended the hearing together with S.S., a family member assisting the Tenants.

Landlord C.L.P. was represented at the hearing by C.M.

Preliminary Matters

Upon inquiry at the start of the proceeding, Tenant C.B. stated they were unaware they were required to serve a copy of the Notice of Dispute Resolution to the Landlord in accordance with section 89(1) of the Act. Furthermore, the 10 Day Notice for Unpaid Rent they sought to cancel, issued March 4, 2024, in the amount of \$32,671.65 was issued in error. The Landlord's representative testified that she saw the error in the Notice regarding the alleged amount of unpaid rent, informed the Tenants accordingly and re-issued a 10 Day Notice on March 4, 2024, providing for unpaid rent in the amount of \$3,437.65. Subsequent to the issuance of the Notice, the Tenants paid \$740.00, thereby reducing the amount of unpaid rent to \$2,697.65.

The Notice of Dispute Resolution Proceeding issued by the RTB to the applicant, under the General Information section, states: "The applicant is required to give the [RTB] proof that this notice and copies of all supporting documents were served to the respondent."

Section 89(1) of the Act provides that an application for dispute resolution, when required to be given by one party to the other party, must be given in one of the following ways:

- a) by leaving a copy with the person;
- b) if the person is a landlord, by leaving a copy with the landlord's agent;
- c) by sending a copy by registered mail to the address at which the person resides, or if a landlord, to the address where the landlord carries on business as a landlord;
- d) if the person is a tenant, by registered mail to the tenant's address;
- e) as ordered by the director; or,
- f) by any other means of service provided in the regulations.

The Regulations, in turn, at section 43(2) provides for email service where a person has given an email address to the other party for purposes of service.

Rule of Procedure 3.1 itemizes the documents that an applicant must serve to each respondent within three (3) days of the Notice of Dispute Resolution Proceeding Package being made available to the applicant. These items include the Notice of Dispute Resolution Proceeding issued to the applicant, as well as all copies of all evidence the applicant provided to the RTB, the instructions for the respondent, and any RTB fact sheets that may have been issued.

Rule of Procedure 3.5 states that at the time of the hearing, the applicant must demonstrate to the satisfaction of the arbitrator that each respondent was served with the Notice of Dispute Resolution Proceeding and all evidence required by the Act and the Rules.

In this case, Tenant C.B. testified she was unaware she was required to provide a copy of the Notice, which set forth her claims, and copies of any evidence she provided to the RTB to the Landlord prior to the hearing. As the 10 Day Notice issued by the Landlord on March 4, 2024 indicating unpaid rent in the amount of \$32,671.65, was rescinded and the Tenants were so informed, the Tenant's application to cancel this Notice is dismissed, without leave to reapply.

Additionally, as the Landlord was unaware of the Tenant's other remaining claims due to the Tenants not serving the Notice of Dispute Resolution Hearing to the Landlord as required, the Tenants' remaining claims are dismissed, with leave to reapply.

The Landlord served the Tenants, individually, by registered mail on March 20, 2024, with the Notice and copies of its evidence regarding the Landlord's application requesting an order of possession and monetary award for unpaid rent based upon the Landlord's 10 Day Notice issued March 4, 2024, for unpaid rent in the amount of \$3,437.65. The Landlord confirmed this service by providing copies of the Canada Post customer receipt containing the registered mail tracking numbers.

During the course of the proceedings, the parties engaged in settlement discussions resulting in settlement of this dispute regarding the Landlord's 10 Day Notice to End Tenancy issued on March 4, 2024, for stated unpaid rent in the amount of \$3,437.65.

Analysis

Under section 63 of the Act, the Arbitrator may assist the parties to settle their dispute. If the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order. During this hearing, the parties reached an agreement to settle their dispute.

Both parties agreed to the following terms of a final and binding resolution of the Landlord's application and the issues in dispute arising out of this tenancy at this time and that they did so knowingly, voluntarily and without any element of duress or coercion:

1. The Tenants' representative stated that the ministry which provides income assistance to Tenant C.B. has agreed to make a one-time payment in the amount of \$1,535.50 immediately, directly to the Landlord toward the current balance of unpaid rent in the amount of \$2,697.65. The Landlord's representative has agreed to cancel the 10 Day Notice provided that the lump sum payment of \$1,535.50 is paid within 30 days of the date of this Decision, said 30 days to account for ministerial processing of the lump sum payment.
2. The Tenants' representative further stated that the ministry will deduct from Tenant C.B.'s financial assistance and forward to the Landlord directly an additional \$100.00 per month for 12 months toward payment of the balance of the outstanding amount of unpaid rent.

3. The Tenants acknowledged their responsibility to pay their monthly rent when due and further acknowledged that the Landlord may issue in the future a Notice to End Tenancy for unpaid rent in the event monthly rent is unpaid. The Tenants further acknowledged their responsibility to take all necessary steps to effectuate the ministry's payments set forth herein to the Landlord on a timely basis.
4. The Landlord acknowledges that this settlement depends upon the representations made by the ministry charged with administering Tenant C.B.'s income assistance, and therefore this settlement agreement does not provide for an order of possession nor a monetary order, and this is without prejudice to the Landlord's rights in filing a subsequent notice to end tenancy.
5. Both parties agreed that these particulars comprise the full settlement of all aspects of the Tenant's current application for dispute resolution.

Conclusion

As I have not considered the merits of the Landlord's application as a result of the settlement, I decline to provide authorization to the Landlord to recover the filing fee for its application from the Tenants under section 72 of the Act.

This decision is issued on authority delegated to me by the Director of the Residential Tenancy Branch under section 9.1(1) of the Act.

Dated: April 17, 2024

Residential Tenancy Branch