

DECISION

Introduction

Pursuant to section 58 of the Residential Tenancy Act (the Act), I was designated to hear linked applications.

The Tenant's March 15, 2024 Application for Dispute Resolution under the *Residential Tenancy Act* (the "Act") for:

- Cancellation of the Landlord's 10 Day Notice to End Tenancy for Unpaid Rent (10 Day Notice) under sections 46 and 55 of the Act
- 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 provide services or facilities required by law under section 27 of the Act
- An order requiring the Landlord to comply with the Act, regulation or tenancy agreement under section 62 of the Act
- Authorization to recover the filing fee for this application from the Landlord under section 72 of the Act

The Landlord's March 25, 2024 Application for Dispute Resolution under the Act is for:

- An Order of Possession under a 10-Day Notice to End Tenancy for Unpaid Rent or Utilities (the 10 Day Notice) pursuant to sections 46 and 55;
- A Monetary Order for unpaid rent, pursuant to section 26;
- An authorization to recover the filing fee for this application, under section 72

Service of Notice of Dispute Resolution Proceeding (Proceeding Package)

Based on the testimony and submissions before me, I find that both parties exchanged Proceeding Packages and are duly served in accordance with the Act.

Service of Evidence

Based on the submissions before me, I find that the Tenant's evidence was served to the Landlord in accordance with section 88 of the Act.

Based on the submissions before me, I find that the Landlord's evidence was served to the Tenant in accordance with section 88 of the Act.

Preliminary Matters

Should the hearing proceed without the Tenant?

The Landlord and I were in the teleconference for a total of 23 minutes, until 9:53 AM. I checked the internal case management system the day of the hearing for any record of contact from the Tenant. Rule of Procedure 7.8 requires the Tenant to have a representative attend the hearing and ask for an adjournment if they require one.

The Landlord was ready to proceed. In the absence of any contact from the Tenant to request an adjournment, I proceeded with the hearing as permitted by Rule 7.3.

10 Day Notice is not effective – no effective date

I find the primary subject of both applications to be the 10 Day Notice to end tenancy dated March 5, 2024. Section 52(c) of the Act indicates that, in order for a notice to end tenancy to be effective, it must state the effective date of the notice. During the hearing, I confirmed with the Landlord that the 10 Day Notice was missing the effective date. It is therefore cancelled, and of no effect. The Landlord may issue a new 10 Day Notice if the unpaid rent issue remains unresolved.

Dismissal of secondary claims

The Tenant did not attend the hearing to present the merits of their secondary claims, which include repairs, facilities/services, as well as a request for the Landlord to comply with the Act, regulations, and/or tenancy agreement. These are dismissed with leave to reapply – I have not explored the merits of any of these claims at the hearing.

The Landlord's application also included a separate claim for unpaid rent. I find this claim to be tied to the 10 Day Notice, which has been cancelled. As a result, I am also dismissing this claim with leave to reapply.

Conclusion

The 10 Day Notice dated March 5, 2024, is cancelled. This tenancy continues until ended in accordance with the Act. The Landlord's application for an Order of Possession under this 10 Day Notice is dismissed, without leave to reapply. The Landlord may issue a new 10 Day Notice is necessary.

All secondary claims from both applications are dismissed with leave to reapply.

Both parties' claims for the filing fee are dismissed.

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

Dated: April 25, 2024

Residential Tenancy Branch