



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Introduction

This hearing dealt with an Application for Dispute Resolution that was filed by the Tenant (Tenant's Application) under the *Residential Tenancy Act* (Act), seeking:

- Cancellation of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (10 Day Notice);
- To dispute a rent increase;
- A rent reduction for repairs, services, or facilities agreed upon but not provided;
- An order for the Landlord to complete repairs;
- An order for the Landlord to provide services or facilities required by the tenancy agreement or law;
- An order restricting or setting conditions on the Landlord's right to enter the rental unit; and
- Recovery of the filing fee.

This hearing also dealt with an Application for Dispute Resolution that was filed by the Landlord (Landlord's Application) under the Act, seeking:

- An Order of Possession based on the 10 Day Notice;
- An Order of Possession based on a One Month Notice to End Tenancy for Cause (One Month Notice);
- Recovery of unpaid rent; and
- Recovery of the filing fee.

Service of Notice of Dispute Resolution Proceeding (Proceeding Package)

Neither party served their Proceeding Package on the other in compliance with section 59(3) of the Act and rule 3.1 of the Residential Tenancy Branch Rules of Procedure (Rules). The ability to know the case against you and have proper notice of the hearing is fundamental to the dispute resolution process. As neither party served their

Proceeding Package on the other as required, I therefore found that it would be administratively unfair to proceed with the hearing of either Application. As a result, I dismissed both Applications in their entirety.

Conclusion

As neither party was successful, their claims for recovery of their respective filing fees are dismissed without leave to reapply. The parties agreed that the Tenant attempted to pay the rent owed as stated on the 10 Day Notice within the time limit set out under section 46(4) of the Act, and the Landlord refused to accept it because they wanted rent for the upcoming month as well. Landlords cannot unreasonably refuse rent. They also cannot prevent a tenant who has been served with a 10 Day Notice from paying the amount of rent owed on the 10 Day Notice within the allowable time frame. As the parties agreed that the Landlord refused the rent owed on the 10 Day Notice within the time frame set out under section 46(4) of the Act, the 10 Day Notice is not valid or enforceable. As a result, the claims from both parties in relation to it are dismissed without leave to reapply.

The above is not a finding the no rent is owed and does not prevent the Landlord from issuing a new 10 Day Notice for any rent still outstanding. All other claims are dismissed with leave to reapply. The Landlord and Agent were cautioned that they may only reapply on the matter of the One Month Notice if a proper One Month Notice under section 47 of the Act was served. They were also provided information on how to end a tenancy for Landlord's use under section 49 of 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 Act.

Dated: May 01, 2024

Residential Tenancy Branch