



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Introduction

This hearing dealt with the cross Applications for Dispute Resolution under the *Residential Tenancy Act* (the "Act") for:

Landlord's Applications:

- An Order of Possession based on a 10 Day Notice to End Tenancy for Unpaid Rent (10 Day Notice for Rent) under sections 46 and 55 of the Act.
- A Monetary Order for unpaid rent and utilities under section 67 of the Act.
- Authorization to recover the filing fee for application # 910154410 from the Tenant under section 72 of the Act.

Tenants' Application:

- An Order of Possession based on a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (10 Day Notice) under sections 46 and 55 of the Act.
- A Monetary Order for the recovery of the Tenants cost for emergency repairs under section 33 of the Act.
- A Monetary Order for compensation for monetary loss or other money owed.
- A rent reduction for repairs, services or facilities agreed upon but not provided.
- An of access to the rental unit for the tenant and their guests.
- An order that the landlord provide services or facilities required by the tenancy agreement or law.
- An order to suspend or set conditions on the landlord's right to enter the rental unit or site.
- An order that the Landlord comply with the Act, regulation or tenancy agreement.

Landlord A.D. attended the hearing for the Landlord.

No one attended the hearing for the Tenants.

Service of Notice of Dispute Resolution Proceeding

- I find that Tenants were deemed served with the Notice of dispute resolution for the Landlord's application on June 3, 2024, by Canada post registered mail, in accordance with section 90 of the Act. The Landlord provided a copy of the tracking numbers into documentary evidence.
- I find that Landlord was not served the Notice of dispute resolution for the Tenants application.

Service of Evidence

- Based on the submissions before me, I find that the Landlord's evidence was served to the Tenants in accordance with section 88 of the Act.
- Based on the submissions before me, I find that the Tenant's evidence was not served to the Landlord in accordance with section 88 of the Act

Preliminary Matter

Rule 7.1 of the Rules of Procedure stipulates that the hearing must commence at the scheduled time unless otherwise decided by the Arbitrator. Rule 7.3 of the Rules of Procedure stipulates that an Arbitrator may conduct the hearing in the absence of a party and may make a decision or dismiss the application, with or without leave to re-apply.

Rules 7.1, 7.3 and 7.4 of the Rules of Procedure provide as follows:

7.1 Commencement of the dispute resolution hearing

The dispute resolution hearing will commence at the scheduled time unless otherwise set by the arbitrator.

7.3 Consequences of not attending the hearing

If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.

7.4 Evidence must be presented

Evidence must be presented by the party who submitted it, or by the party's agent. If a party or their agent does not attend the hearing to

present evidence, any written submissions supplied may or may not be considered.

This hearing was scheduled to commence at 11:00 a.m. on June 24, 2024. I called into the teleconference at 11:00 a.m., the line remained open while the phone system was monitored for sixteen minutes and the only participant who called into the hearing during this time was the Landlord. Therefore, as the Tenants did not attend the hearing by 9:46 a.m. and the Landlord appeared and was ready to proceed, I dismiss the Tenants' application without leave to reapply.

Issues to be Decided

- Is the Landlord entitled to an Order of Possession based on the 10 Day Notices?
- Is the Landlord entitled to a Monetary Order for unpaid rent and/or utilities?
- Is the Landlord entitled to recover the filing fee for this application from the Tenant?

Background and Evidence

I have reviewed all evidence, including the testimony of the parties, but will refer only to what I find relevant for my decision.

Evidence was provided showing that this tenancy began on March 1, 2024, with a monthly rent of \$1,500.00, due on the first day of the month, and with a security deposit in the amount of \$750.00 and a pet damage deposit in the amount of \$750.00. The Landlord submitted a copy of the tenancy agreement into documentary evidence.

The Landlords testified that they served the 10-Day Notice for unpaid utilities to the Tenant on May 18, 2024, by personal service. The Landlord submitted a copy ty of the Notice they served into documentary evidence.

It was noted that the Landlord had only submitted page one of the three-page 10-Day Notice to End Tenancy for Unpaid Rent or Utilities, #RTB-30, into evidence.

The Landlord testified that they had only served the first page of this Notice to the Tenants.

Analysis

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

**Is the Landlord entitled to an Order of Possession based on the 10 Day Notice?
Is the Landlord entitled to a Monetary Order for unpaid rent and utilities?**

As a copy of the full three-page Notice was not served to the Tenants, I find that this Notice is not valid and is unenforceable under the Act.

Consequently, I dismiss the Landlord's application for an order of possession and a monetary order, to enforce this Notice, in its entirety.

Is the Landlord entitled to recover the filing fee for both their applications from the Tenant?

As the Landlord had not been successful in both their application, I find that the Landlord is not entitled to recover their filing fee paid for this application under section 72 of the Act.

Conclusion

I dismiss the Tenants' Application for Dispute Resolution.

I dismiss the Landlord's Application for Dispute Resolution.

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: June 24, 2024

Residential Tenancy Branch