

DECISION

Introduction

This hearing dealt with the Tenants' 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

This hearing dealt with Landlords' Application for Dispute Resolution under the Act for:

- an Order of Possession based on the 10 Day Notice under sections 46 and 55 of the Act
- a Monetary Order for unpaid rent under section 67 of the Act
- authorization to recover the filing fee for this application from the Tenant under section 72 of the Act

No one attended for the Tenants.

Landlord B.D. and landlord L.C. attended for the Landlords.

Preliminary Matters

Tenants and Landlords

At the outset of the hearing, L.C. informed me that she is the co-landlord. I therefore amended the Tenants' application to add her as a respondent.

The Landlords also informed me K.M. and R.T. are the Tenants, while D.W. is not named on the tenancy agreement. I therefore removed D.W. as an applicant from the Tenants' application and added R.T.

Service of Notice of Dispute Resolution Proceeding (Proceeding Package)

Tenant's Application

B.D. testified that he did not receive the Proceeding Package from the Tenants and only found out about their application when he submitted the application for an order of possession. The Tenants did not provide any evidence proving that the Landlords were served.

I find that the Tenants failed to demonstrate on a balance of probabilities that they sufficiently served the Landlords with the Proceeding Package.

For this reason, I find that the Landlords were not served with the Proceeding Package in accordance with section 89 of the Act.

Therefore, the Tenants' application for cancellation of the 10 Day Notice under sections 46 and 55 of the Act is dismissed, with leave to reapply. I make no findings on the merits of the matter. Leave to reapply is not an extension of any applicable limitation period.

Landlord's Application

B.D. testified that he served the Proceeding Package for his application to only one tenant, not both. However, he did not provide any evidence proving that the Tenants were served.

I find that the Landlords failed to demonstrate on a balance of probabilities that they sufficiently served the Tenants with the Proceeding Package.

For this reason, I find that the Tenants were not served with the Proceeding Package in accordance with section 89 of the Act.

Therefore, the Landlords' application for an Order of Possession based on the 10 Day Notice under sections 46 and 55 of the Act and a Monetary Order for unpaid rent under section 67 of the Act, is dismissed, with leave to reapply. I make no findings on the merits of these matters. Leave to reapply is not an extension of any applicable limitation period.

Is the Landlord entitled to recover the filing fee for this application from the Tenant?

As the Landlords were not successful in this application, the Landlords' application for authorization to recover the filing fee for this application from the Tenants under section 72 of the Act is dismissed, without leave to reapply.

Conclusion

The Tenants' application for cancellation of the 10 Day Notice is dismissed, with leave to reapply.

The Landlords' application for an order of possession based on the 10 Day Notice is dismissed, with leave to reapply.

The Landlords' application for a monetary order is dismissed, with leave to reapply.

The Landlords' application for authorization to recover the filing fee is dismissed, without leave to reapply.

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: September 20, 2024

Residential Tenancy Branch