

## **DECISION**

### **Introduction**

This hearing dealt with the Tenant's Applications 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
- cancellation of the Landlord's One Month Notice to End Tenancy for Cause (One Month Notice) under section 40 of the Act
- an order for the Landlord to allow access to the unit or site for the Tenant and the Tenant's guests under section 30 of the Act
- an order for the Landlord to provide services or facilities required by law under section 27 of the Act

### **Service of Notice of Dispute Resolution Proceeding (Proceeding Package)**

The Landlord testified that he received the notice of hearing for both applications from the Tenants. I find that the Landlord was served in accordance with section 89 of the Act.

### **Service of Evidence**

The Landlord testified that he did not receive, serve or submit any evidence.

### **Preliminary Matters**

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 pursuant to rule of procedure 7.3.

I conducted the dispute resolution hearing in the absence of the Tenants.

## **Issues to be Decided**

Should the Landlord's 10 Day Notice be cancelled? If not, is the Landlord entitled to an Order of Possession?

Is the Landlord entitled to a monetary order for unpaid rent?

Should the Landlord's One Month Notice be cancelled?

Should the Tenants be granted an order for the Landlord to allow access to the unit or site for the Tenants and the Tenants' guests?

Should the Tenants be granted an order for the Landlord to provide services or facilities required by law?

## **Background and Evidence**

The Landlord testified that the tenancy began on February 1, 2024, with a monthly rent of \$2,850.00, due on first day of the month, with a security deposit in the amount of \$1,425.00. The Landlord stated that the Tenants are no longer living in the rental unit.

The Landlord stated that he served the 10 Day Notice on the Tenants on August 19, 2024, with an effective date of August 31, 2024, by attaching it to the Tenants' door. The Landlord stated that \$606.00 was unpaid in utilities for which a written demand was provided to the Tenants on August 13, 2024. The Landlord further added that rent for September had also not been paid by the Tenants.

The Landlord stated that on the date of the hearing, \$1,110.56 was outstanding in unpaid utilities and \$1,134.10 had been spent by the Landlord on repairing damage that the Tenants caused to the unit.

## **Analysis**

**Should the Landlord's 10 Day Notice be cancelled? If not, is the Landlord entitled to an Order of Possession?**

As the Tenants have already moved out of the rental unit, the issue of the 10 Day Notice and an order of possession is moot. The Tenants application is dismissed, without leave to reapply. I make no findings on the merits of this matter.

**Is the Landlord entitled to a Monetary Order for unpaid rent?**

Section 55(1.1) of the Act states that if a tenant makes an application to set aside a landlord's notice to end a tenancy under section 46 of the Act for non-payment of rent,

and the application is dismissed, the Arbitrator must grant the landlord an order requiring the repayment of the unpaid rent if the notice complies with section 52 of the Act.

Section 52 of the Act states that in order to be effective, a notice to end tenancy given by a landlord must:

- be in writing
- be signed and dated by the landlord giving the notice
- give the address of the rental unit
- state the effective date of the notice
- state the grounds for ending the tenancy, and
- be in the approved (Residential Tenancy Branch) form

The Act requires that notices to end tenancy issued by the Landlord be in the approved form due to the fact that the approved form contains all of the required information for a tenant. While neither party provided a copy of the 10 Day Notice, I note that in situations in which a tenant applies to cancel a Notice to End Tenancy, the Landlord bears the onus of establishing that the Notice is valid and should be enforced. It was therefore the Landlord's responsibility to submit a copy of the 10 Day Notice for this hearing.

As I did not have a copy of the 10 Day Notice before me to evaluate, I am unable to determine whether it met the statutory requirements under section 52 of the Act as to form and content. I find the Landlord has failed to establish that the Notice was valid. Therefore, I am unable to grant a monetary order for unpaid rent.

### **Should the Landlord's One Month Notice be cancelled?**

As the Tenants have already moved out of the rental unit, the issue of the One Month Notice is moot. The Tenants application is dismissed, without leave to reapply. I make no findings on the merits of this matter.

### **Should the Tenants be granted an order for the Landlord to allow access to the unit or site for the Tenants and the Tenants' guests?**

As the Tenants have already moved out of the rental unit, the issue of the Landlord allowing access to the unit is moot. The Tenants application is dismissed, without leave to reapply. I make no findings on the merits of this matter.

### **Should the Tenants be granted an order for the Landlord to provide services or facilities required by law?**

As the Tenants have already moved out of the rental unit, the issue of the Landlord providing services or facilities required by law is moot. The Tenants application is dismissed, without leave to reapply. I make no findings on the merits of this matter.

## **Conclusion**

The Tenant's applications are dismissed in their entirety, 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: October 4, 2024

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Residential Tenancy Branch