



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, OLC, FFT; OPRM-DR, FFL

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the "10 Day Notice") pursuant to section 46;
- an order requiring the landlord to comply with the *Act*, *Residential Tenancy Regulation* ("Regulation") or tenancy agreement pursuant to section 62; and
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

This hearing also addressed the landlord's cross application for:

- an order of possession for unpaid rent pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant did not participate in the conference call hearing to present her claim; consequently the tenant's entire application is dismissed without leave to reapply.

The landlord's agent attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlord confirmed he was an agent of the landlord named in this application, and had authority to speak on her behalf.

Under section 59(3) of the *Act*, a party who makes an application for dispute resolution must give a copy of the application to the other party within 3 days of making it. In this case the landlord testified that he did not serve the tenant a copy of the application.

Based on the landlord's own testimony and in accordance with section 59, I dismiss the landlord's application with leave to reapply.

Although each party's application has been dismissed, there is a provision in the *Act* under section 55 which allows an order of possession to be granted to the landlord, if the tenant makes an application and it is dismissed. The notice must comply in form and content. Accordingly, I must determine whether the landlord is entitled to an order of possession.

Issue(s) to be Decided

Is the landlord entitled to an order of possession?

Background and Evidence

As per the submitted tenancy agreement, the tenancy began on March 15, 2018 on a fixed term until March 31, 2019. Rent in the amount of \$1,850.00 is payable on the first of each month. The tenant remitted a security deposit in the amount of \$925.00 at the start of the tenancy, which the landlord still retains in trust. The tenant continues to reside in the rental unit.

A 10 Day Notice was issued to the tenant on September 12, 2018 by way of posting to the rental unit door where the tenant resides. The notice indicates an effective move-out-date of September 22, 2018.

Analysis

Section 52 of the *Act* provides that a notice to end tenancy from a landlord must be in writing and must be signed and dated by the landlord, 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 form.

Based on the notice before me, I find that the tenant was served with an effective notice. Accordingly I find that the landlord is entitled to a two (2) day order of possession, pursuant to section 55 of the *Act*.

Conclusion

The tenant's application is dismissed without leave to reapply.

The landlord's application for a monetary order for unpaid rent is dismissed with leave to reapply.

I grant an order of possession to the landlord effective **two (2) days after service on the tenant.**

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: November 01, 2018

Residential Tenancy Branch