



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CENTURY 21 EXECUTIVES REALTY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNR, CNC

Introduction

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

- cancellation of the landlord's Ten Day Notice to End Tenancy for Unpaid Rent or Utilities ("10 Day Notice"), pursuant to section 46; and
- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 47.

The tenant did not attend this hearing, which lasted approximately 10 minutes. The landlords' agents attended the hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlords agents and I were the only people who called into this teleconference.

The landlord confirmed receipt of the tenant's application for dispute resolution hearing package and amendment. In accordance with sections 89 and 90 of the *Act*, I find that the landlord was duly served with the tenant's application and amendment.

LF testified that she served the tenant with the landlord's 10 Day Notice on January 3, 2022, by way of personal service. I am satisfied that the tenant was served notice in accordance with section 88 of the *Act*. CM testified that the tenant moved out on April 1, 2022 and that she has now taken back possession of the suite.

Preliminary Issue – Dismissal of Tenant's Application

Rule 7.3 of the RTB *Rules* provides as follows:

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.

In the absence of any evidence or submissions from the tenant, I order the tenant's entire application dismissed without leave to reapply.

Issues to be Decided

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

Background and Evidence

While I have turned my mind to the testimony of the landlord, not all details of the respective submissions and arguments are reproduced here. The relevant and important aspects of the tenant's claims and my findings are set out below.

CM testified regarding the following facts. This tenancy began on February 1, 2021. Monthly rent in the amount of \$1,300.00 is payable on the first day of each month as well as utilities. A security deposit of \$650.00 was paid by the tenant and the landlord continues to retain this deposit. A written tenancy agreement was signed by both parties.

CM testified that the tenant fell behind in paying rent in January 2022 and despite some small partial payments, she was unable to catch up. CM testified that as of today's hearing the amount of unpaid rent and utilities is \$3245.52.

Analysis

Monetary Order

Section 55(1.1) of the *Act* states the following:

55(1.1) If an application referred to in subsection (1) is in relation to a landlord's notice to end a tenancy under section 46 [landlord's notice: non-payment of rent], and the circumstances referred to in subsection (1) (a) and (b) of this section apply, the director must grant an order requiring the payment of the unpaid rent.

Effective on March 25, 2021, the landlord is entitled to a monetary order for unpaid rent without filing a separate application.

As per section 26 of the *Act*, the tenant is required to pay rent on the first day of each month. Section 7(1) of the *Act* establishes that a tenant who does not comply with the *Act*, *Regulation* or tenancy agreement must compensate the landlord for damage or loss that results from that failure to comply.

CM testified that the amount of unpaid rent and utilities is \$3245.52. The landlord continues to hold the tenant's security deposit of \$650.00. In accordance with the offsetting provisions of section 72 of the *Act*, I allow the landlord to retain the tenant's entire security deposit, of \$650.00, in partial satisfaction of the monetary award.

Conclusion

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

The landlord has established a claim for \$3245.52. I order that the landlord retain the \$650.00 deposit in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$2595.52. This order may be filed in the Small Claims Court and enforced as an order of that Court.

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: April 05, 2022

Residential Tenancy Branch