



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes CNR, LRE

Introduction

The tenant applied on January 29, 2023 for (i) an order cancelling a 10 Day Notice to End Tenancy for Unpaid Rent (the “Notice”) pursuant to section 46(4)(b) of the *Residential Tenancy Act* (the “Act”); and (ii) an order to suspend or restrict the landlord’s right to enter the rental unit under section 70 of the Act.

The landlord attended the hearing. No one dialled in on behalf of the tenant during the hearing, which lasted from 1:00 P.M. to 1:16 P.M.

Preliminary Issue - Unrelated Claims

Rules of Procedure 2.3 states that claims made in an application for dispute resolution must be related to each other. Arbitrators may use their discretion to dismiss unrelated claims.

It is my determination that the claim regarding the Notice is not sufficiently related to the tenant’s other claim to warrant that they be heard together. I exercise my discretion to dismiss the tenant’s other claim with leave to reapply and will deal only with the cancellation of the Notice.

Preliminary Issue – Service of Documents

The landlord affirmed that the landlord did not receive any of the tenant’s documentary evidence. The landlord further affirmed that the landlord did not serve the tenant with any of the landlord’s documentary evidence. Therefore, all documentary evidence submitted by the parties are excluded under section 3.13 and 3.15 of the Rules of Procedure.

Issues

1. Is the tenant entitled to an order cancelling the Notice?
2. If not, is the landlord entitled to an order of possession?

Analysis

As the tenant did not attend the hearing to provide any evidence, I order the tenant's application dismissed, with leave to reapply.

Section 55(1) of the Act provides that, if a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the landlord is entitled to an order of possession of the rental unit if (a) the landlord's notice to end tenancy complies with section 52 [form and content of notice to end tenancy], and (b) the tenant's application is dismissed.

As neither parties served each other with their respective documentary evidence, there is no Notice in evidence for me to review. Therefore, while the tenant's application is dismissed, I am unable to come to a finding on whether the Notice complies with section 52 of the Act. Based on this, I find that the landlord is not entitled to an order of possession.

Conclusion

The application is dismissed with 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 *Residential Tenancy Act*.

Dated: April 24, 2023

Residential Tenancy Branch