



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes CNR, FFT

Introduction

This hearing dealt with the tenant's application, filed on December 13, 2022, pursuant to the *Residential Tenancy Act* ("Act") for:

- cancellation of the landlords' Ten Day Notice to End Tenancy for Unpaid Rent or Utilities ("10 Day Notice"), pursuant to section 46; and
- authorization to recover the \$100.00 filing fee paid for this application, pursuant to section 72.

The applicant tenant and the respondent "landlord HG" did not attend this hearing, which lasted approximately 11 minutes. The respondent landlord RG ("landlord") attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

This hearing began at 1:30 p.m. and ended at 1:41 p.m. I monitored the teleconference line throughout this hearing. 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 landlord and I were the only people who called into this teleconference.

The landlord confirmed her name, spelling, and the rental unit address. She stated that she had permission to represent the owner of the rental unit, landlord HG, who she said is her father (collectively "landlords").

Rule 6.11 of the Residential Tenancy Branch ("RTB") *Rules of Procedure* ("Rules") does not permit recordings of an RTB hearings by any participants. At the outset of this hearing, the landlord affirmed, under oath, that she would not record this hearing.

I explained the hearing process to the landlord. She had an opportunity to ask questions, which I answered. She did not make any adjournment or accommodation requests.

Preliminary Issue – Dismissal of Tenant's Application

The landlord stated that she received a copy of the tenant's application for dispute resolution hearing package. In accordance with section 89 of the *Act*, I find that both landlords were duly served with the tenant's application.

Rule 7.3 of the RTB *Rules* states the following:

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 appearance by the tenant, I order the tenant's entire application dismissed without leave to reapply. I informed the landlord of my decision during this hearing.

Analysis

Pursuant to section 55 of the *Act*, if I dismiss the tenant's application to cancel a 10 Day Notice, the landlords are entitled to an order of possession, provided that the notice meets the requirements of section 52 of the *Act* and the landlords provide sufficient evidence of same.

Pursuant to section 55 of the *Act*, the landlords are entitled to a monetary order for unpaid rent without filing a separate application, provided that the 10 Day Notice meets the requirements of section 52 of the *Act* and the landlords provide sufficient evidence of same.

At the outset of this hearing, the landlord affirmed that the tenant vacated the rental unit. She said that the landlords did not require an order of possession against the tenant because they already took back possession of the rental unit.

The landlord claimed that she did not serve any evidence regarding this application, to the tenant, because the tenant left the rental unit, and the landlords could not locate her.

She stated that the landlords may file a future application for unpaid rent against the tenant.

Neither party provided a copy of the 10 Day Notice as evidence for this hearing. The tenant moved out, the landlords took back possession of the rental unit, and the landlords do not require an order of possession against the tenant. The landlords did not serve evidence of unpaid rent to the tenant. The landlords may file a future RTB application for unpaid rent, against the tenant.

For the above reasons, I informed the landlord that I would not issue an order of possession or a monetary order to the landlords, against the tenant. She affirmed her understanding of same.

Conclusion

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

The landlord is not issued an order of possession or a monetary order for unpaid rent, against the tenants.

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 21, 2023

Residential Tenancy Branch