



DECISION

Introduction

This hearing dealt with the Tenant's Application dated August 3, 2023 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 (the 10 Day Notice) under sections 46 and 55 of the Act
- a monetary order for compensation under section 67 of the Act
- an order reducing rent for repairs, services or facilities agreed upon but not provided under section 27 of the Act
- an order for repairs to be made to the unit under section 32 of the Act
- an order for the landlord to allow access to the unit by the tenant and/or guests under section 30 of the Act
- an order suspending or setting conditions on the landlord's right to enter under section 70 of the Act
- an order requiring the landlord to comply with the Act, regulation and/or tenancy agreement under section 65 of the Act

It also dealt with the Landlord's Application dated August 18, 2023 for Dispute Resolution under the *Residential Tenancy Act* (the "Act") for:

- an order of possession following issuance of a 10 Day Notice to End Tenancy for Unpaid Rent under sections 46 and 55 of the Act
- a monetary order for compensation for unpaid rent under sections 46 and 55 of the Act
- a monetary order to recover the filing fee under section 72 of the Act

Agents for the landlord and the tenant attended the hearing. The parties told me at the outset of the hearing that the tenant moved out on October 5, 2023. In light of the fact that the tenancy is over, the tenant did not proceed with her application.

Service of Notice of Dispute Resolution Proceeding (Proceeding Package)

I am satisfied that the Proceeding Packages were served in accordance with the Act.

Evidence

Neither party raised any issue regarding service of evidence

Issue(s) to be Decided

Should the 10 Day Notice be cancelled? If not is the landlord entitled to an order of possession?

Is the landlord entitled to monetary compensation for unpaid rent and/or utilities?

Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

Evidence was provided showing that this tenancy began on May 15, 2023, with a monthly rent of \$1,775.00, payable on the first of the month. Security and pet deposits totalling \$1,750.00 were paid and are currently held by the landlord.

The landlord served the tenants with the 10 Day Notice on August 2, 2023 by posting a copy on the door. #RTB-30 was used, it was signed and dated by the landlord, gave the address of the rental unit, and stated the effective date of August 15, 2023.

The tenant filed for dispute resolution on August 3, 2023. The tenant did not make any rent payments in August, September, or October 2023.

The tenant moved out on October 5, 2023.

Analysis

Should the 10 Day Notice be cancelled? If not is the landlord entitled to an order of possession?

Section 26 of the Act states that a tenant must pay rent to the landlord, regardless of whether the landlord complies with the Act, regulations or tenancy agreement, unless the tenant has a right to deduct all or a portion of rent under the Act.

Section 46 of the Act states that upon receipt of a 10 Day Notice the tenant must, within five days, either pay the full amount of the arrears as indicated on the 10 Day Notice or dispute the 10 Day Notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch. If a tenant who has received a 10 Day Notice does not pay the rent or make an application for dispute resolution, the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice.

I find that the tenant did not pay rent at all in August 2023.

The 10 Day Notice is valid. Because the landlord has possession of the rental unit, an order of possession is not required.

Is the landlord entitled to monetary compensation for unpaid rent and/or utilities?

The landlord is entitled to unpaid rent for the months of August, September, and October 2023, totalling \$5,325.00. The landlord is authorized to apply the security and pet deposit in partial satisfaction.

Is the landlord entitled to recover the filing fee for this application from the tenant?

As the landlord was successful in their application, I find that the landlord is entitled to recover the \$100.00 filing fee paid for this application under section 72 of the Act.

Conclusion

The tenant's application is dismissed without leave to reapply. The landlord's application is granted. I do not grant an order of possession because the landlord has possession of the rental unit since October 5, 2023.

I grant a **\$3,660.79** Monetary Order to the landlord. The tenant must be served with **this Order** as soon as possible. Should the tenant fail to comply, it may be enforced in the Small Claims Division of the Provincial Court.

Unpaid rent	\$5,325.00
Less – Pet and Security Deposit with interest	\$1,764.21
Plus – Filing Fee	\$100.00
Total	\$3,660.79

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: October 13, 2023

Residential Tenancy Branch