



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes CNR

Introduction

This matter dealt with an application by the tenant to cancel a Notice to End Tenancy for unpaid rent.

Service of the hearing documents was done in accordance with section 89 of the *Act*. They were hand delivered to the landlords' place of business on July 09, 2009.

Both parties appeared, gave their testimony, were provided the opportunity to present evidence and make submissions. On the basis of the solemnly affirmed evidence presented at the hearing, a decision has been reached

Issues(s) to be Decided

- Was a valid 10 Day Notice issued to the tenant?
- Was there any outstanding rent owed by the tenant at the time this notice was issued?
- If not should the tenancy continue?

Background and Evidence

This tenancy started on April 01, 2009. The rent for this unit is \$375.00 per month due on the 1st of each month. The ministry pays the landlord directly for the tenants rent. The tenant paid a security deposit of \$187.50 on April 01, 2009.

The tenant testifies that he does not owe any rent as the ministry has sent the rent checks each month to the landlord. This has been confirmed by documents supplied. The landlords' agent also confirms that they have now found the missing cheques and the tenant does not owe rent.

The tenant and landlords agent both agree that the tenancy agreement allows for a three month period where the tenant can be 'voted out' of the residential property if it is found he does not fit. The tenant claims that this is not a valid reason for a 10 Day Notice to End tenancy for unpaid rent to be issued and an incorrect form was also used for this reason.

The landlords' agent agrees that the tenancy can continue at this time as the tenant does not owe rent to the landlord.

Analysis

I find that an incorrect form was used to end the tenancy for unpaid rent citing reasons which were unconnected to unpaid rent. It has been agreed by both parties that the tenant does not owe any rent. Therefore, I uphold the tenants' application to cancel the Notice to End Tenancy and the tenancy may continue.

Conclusion

The tenant's application is allowed. The 10 Day Notice to End Tenancy for unpaid rent served on the tenant on July 01, 2009, is cancelled and the tenancy will continue.

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: August 20, 2009.

Dispute Resolution Officer