



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

Decision

Dispute Codes: CNR

Introduction

This hearing dealt with the tenant's application to cancel a notice to end tenancy for unpaid rent. Both parties participated in the hearing and gave affirmed testimony.

Issue to be decided

- Whether the tenant is entitled to cancellation of the landlord's notice to end tenancy for unpaid rent

Background and Evidence

There was virtually no documentation submitted by the tenant for the purposes of the hearing. Further, the landlord's testimony was particularly difficult to hear as he was using a cell phone and driving in traffic.

It is understood that the month-to-month tenancy began on or about February 1, 2009, and that rent in the amount of \$700.00 is payable on the first day of the month. It is also understood that in late June 2009 the landlord issued a 2 month notice to end tenancy for landlord's use of property. The effective date of the notice is understood to be August 31, 2009. The tenant does not dispute the notice but objects that the landlord requires that he make full payment of rent for the month of August.

For his part, the landlord claimed he did not know of the statutory provision which entitles the tenant to the equivalent of one month's rent in circumstances such as these.

Analysis

Section 51 of the Act addresses **Tenant's compensation: section 49 notice**, and provides as follows:

51(1) A tenant who receives a notice to end a tenancy under section 49 *[landlord's use of property]* is entitled to receive from the landlord on or before the effective date of the landlord's notice an amount that is the equivalent of one month's rent payable under the tenancy agreement.

(1.1) A tenant referred to in subsection (1) may withhold the amount authorized from the last month's rent and, for the purposes of section 50(2), that amount is deemed to have been paid to the landlord.

(1.2) If a tenant referred to in subsection (1) gives notice under section 50 before withholding the amount referred to in that subsection, the landlord must refund that amount.

(2) In addition to the amount payable under subsection (1), if

(a) steps have not been taken to accomplish the stated purpose for ending the tenancy under section 49 within a reasonable period after the effective date of the notice, or

(b) the rental unit is not used for that stated purpose for at least 6 months beginning within a reasonable period after the effective date of the notice, the landlord, or the purchaser, as applicable under section 49, must pay the tenant an amount that is the equivalent of double the monthly rent payable under the tenancy agreement.

Conclusion

Pursuant to all of the above, I hereby order that the tenant may withhold full payment of rent in the amount of \$700.00 for the month of August 2009.

DATE: August 19, 2009

Dispute Resolution Officer