

DECISION

Dispute Codes CNR

Introduction

Some documentary evidence and written arguments has been submitted prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the applicant the opportunity to testify at the hearing.

The respondent was served with notice of the hearing by hand on September 8th 2009, but did not join the conference call that was set up for the hearing.

All testimony was taken under affirmation.

Issues(s) to be Decided

This is a request to have a section 46 Notice to End Tenancy for non-payment of rent cancelled.

Background and Evidence

The applicant testified that:

- The rent cheque for the month of September 2009 was given to the landlord on August 6, 2009.
- The cheque came from the Ministry of Housing and Social Development, and was made out to the Metropole Hotel, as usual.
- He does not know why the landlord has not cash the cheque or why the landlord has not asked for a replacement cheque if the cheque has gone missing.



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Residential Tenancy Branch
Ministry of Housing and Social Development

- If the check has gone missing the Ministry is willing to put a stop payment on the cheque and re-issue a cheque for the September 2009 rent.
- The landlord has also subsequently accepted October 2009 rent and issued a receipt.

The applicant is therefore requesting that the Notice to End Tenancy be cancelled.

Analysis

The applicant has shown that his rent is regularly paid by the Ministry of Housing and Social Development with a cheque that is made out directly to the landlord.

I accept the tenant's testimony that the cheque for September 2009 rent was given to the landlord and since the landlord is not present to testify to the contrary or to state what may have happened to the cheque, it is my decision that the Notice to End Tenancy that has been given to the tenant will be set aside.

Conclusion

The Notice to End Tenancy dated September 4, 2009 is hereby cancelled and this tenancy continues. I further order that the respondent, pay to the director of the Residential Tenancy Office, the filing fee of \$50.00, that was waived for the applicant.

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 22, 2009.

Dispute Resolution Officer