



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes CNR

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant to cancel the 10 Day Notice to End Tenancy for unpaid rent.

The tenant served the landlord by leaving a copy of the hearing documents at the landlords' place of work on June 25, 2010. I find that the landlord was properly served pursuant to s. 89 of the *Act* with notice of this hearing.

Both parties appeared, gave affirmed testimony, were provided the opportunity to present their evidence orally, in written form, documentary form, to cross-examine the other party, and make submissions to me. On the basis of the solemnly affirmed evidence presented at the hearing I have determined:

Issues(s) to be Decided

Should the Notice to End tenancy be cancelled?

Background and Evidence

Both Parties agree that this tenancy started on April 17, 2010.

The landlord states there was some confusion over the details of the tenancy. She states her company took over as property managers of this building in May, 2010 after the tenants tenancy had started. The landlords' agent states they were not given a tenancy agreement relating to this tenant. She claims she called the previous caretaker of the building and asked for details of the tenants rent. The landlords' agent states she was told it was \$995.00 per month. The



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landlords' agent was given a rent ledger which only showed a rent payment for the half of April since the tenant moved in showing \$344.00 had been paid for April by this tenant. Other invoices were also provided by the previous landlord.

The landlords' agent states she spoke to the tenant who informed her her rent was actually \$850.00 per month. The landlords' agent states the tenant paid \$425.00 in May, 2010 as she was given half a month rent free by agreement from previous landlord. The landlord claims the tenant paid rent of \$497.50 in June and a 10 Day Notice to End Tenancy was served to the tenant on June 17, 2010. This gave an effective date to end the tenancy of June 24, 2010 due to \$570.00 in unpaid rent. The landlords' agent states that the tenant has only paid rent of \$497.50 for July and August, 2010 and now owes rent arrears of \$1,057.50.

The tenant disputes this 10 Day Notice. The tenant claims that when she moved into the rental unit she was told her rent would be \$850.00. She states she paid a smaller amount of rent for the first month because she moved in on April 17, 2010. In May, 2010 she paid \$425.00 as she had an agreement with the landlords at the time that she would get half of Mays rent free as an incentive. The tenant states she paid a security deposit of \$425.00 which was half the months rent.

The tenant testifies that she kept asking the landlords for a tenancy agreement but was never given one. She received a letter from one of the landlords agents that stated her rent would be \$497.50 and would be due on the first of each month.(letter provided). The tenant states this is the amount she paid for June, July and August, 2010 as requested in this letter from the landlords' agent. The tenant does not think she should be held accountable for the landlords' mistakes as she acted in good faith and paid the amount requested on time each month.

The landlords' agent does not disagree with the tenants comments and states she has now drawn up the correct tenancy agreement (copy attached) for the tenant to come in to sign which shows that the rent for the unit is \$850.00 per month.



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Analysis

I have carefully considered all the evidence before me, including the affirmed evidence of both parties, I find the rent for this unit was \$850.00 however due to the change in property managers this amount became confused especially for the tenant and the landlords' agent. Invoices and rent information concerning this tenant appears to be contradictory from the previous landlords' agent. Therefore, it is my decision that the tenant acted in good faith when she received the letter from the landlords' agent which informed her that she must pay rent of \$497.50 on the first of each month. As no tenancy agreement had been provided to the tenant at that time then this is the amount she paid. Consequently, it is my decision that when the tenant was served the 10 Day Notice to End Tenancy for unpaid rent she was not in arrears with her rent as stated to her in the letter from the landlords' agent.

It is also my decision that due to this mix up in rental payments on the part of the landlord that the new tenancy agreement which shows that rent will be \$850.00 will take effect from September 01, 2010. Both parties must sign and date this agreement as soon as possible.

Conclusion

The tenant's application is allowed. The 10 Day Notice to End Tenancy for Cause dated June 17, 2010 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 19, 2010.

Dispute Resolution Officer