



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes CNR, OLC, ERP, RP, FF

Introduction

This hearing dealt with the tenant's Application for Dispute Resolution to cancel a notice to end tenancy and for an order to have the landlord comply with the *Residential Tenancy Act (Act)*, regulation or tenancy agreement; to make repairs and to make emergency repairs.

The hearing was conducted via teleconference and was attended by the tenant and the landlord.

Issues(s) to be Decided

The issues to be decided are whether the tenant is entitled to cancel a 10 Day Notice to End Tenancy for Unpaid Rent; to an order to have the landlord comply with the *Act*, regulation or tenancy agreement and to make repairs and emergency repairs and to recover the filing fee from the landlord for the cost of the Application for Dispute Resolution, pursuant to sections 32, 33, 46, 67, and 72 of the *Act*.

Background and Evidence

The tenancy began on February 15, 2010 as a month to month tenancy for a monthly rent of \$1,500.00 and a security deposit was paid on February 15, 2010. The tenant contends rent is due on the 1st Friday of the month while the landlord believes rent to be due on the 1st of the month.

The landlord testified that the tenant has not paid rent for the months of July, August and September 2010. The landlord issued a 10 Day Notice to End Tenancy for Unpaid Rent on July 21, 2010 for rent that was due on July 1, 2010 in the amount of \$1,500.00.

The tenant testified that he stopped paying rent as the landlord had failed to fix a sump pump that resulted in the tenant suffering substantial financial loss, the tenant did not provide any documentation of what that financial loss was. The tenant also testified that the landlord has failed to fix the furnace in the house since it was reported in April, 2010. The landlord testified that he knew nothing of the problem with the furnace until July 2010.

Analysis

Section 26 of the *Act* requires a tenant to pay rent when it is due under the tenancy agreement, whether or not the landlord complies with the *Act*, regulations or tenancy agreement.

Section 33 does allow a tenant to make emergency repairs under specific conditions and also requires a landlord to reimburse a tenant for amounts paid for emergency repairs. The landlord is only required to reimburse the tenant if the tenant claims reimbursement and gives the landlord a written account of the emergency repairs including receipts.

The section goes on to say that should the landlord not reimburse the tenant, the tenant may deduct the amount from rent. No evidence was provided that indicates the tenant complied with Section 33 to be able to deduct the amount from rent.

Despite the tenant's testimony of the condition of the rental unit, I find the tenant has failed to comply with Section 26 of the *Act*. The landlord did not request an order of possession during the hearing but the parties agreed during the hearing that the tenancy would end September 30, 2010.

As the tenancy is ending there is no longer reason to consider the tenant's additional issues on his application, I therefore dismiss the other related matters.

Conclusion

I dismiss the tenant's application to cancel the 10 Day Notice to End Tenancy for Unpaid Rent issued by the landlord on July 21, 2010 and find the Notice is of full force and effect.

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: September 07, 2010.

Dispute Resolution Officer