



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes OPR, MNR

Introduction

This hearing dealt with the Landlord's Application for Dispute Resolution, seeking to cancel a Notice to End Tenancy issued for unpaid rent.

The Agent for the Landlord and Tenant appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

The hearing documents were in the time and manner prescribed in the Act and the Tenant acknowledged receiving the same.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence **relevant** to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

Has the Tenant breached the Act or tenancy agreement, entitling the Landlord to an Order of Possession?

Background and Evidence

This tenancy started on March 1, 2009, on a month to month basis and monthly rent is \$399.00.

The Agent for the Landlord proceeded first in the hearing and testified as to why the Tenant had been served a 10 Day Notice to End Tenancy.

The Landlord issued the Tenant a 10 Day Notice to End Tenancy on August 16, 2010, in person, for a stated move out date of August 26, 2010.

The Agent for the Landlord testified that she accepted the rent payment after the Notice had been served and for two months thereafter; however, the Landlord did not issue the Tenant a receipt for use and occupancy only.

The Tenant testified that he believed the Notice to End tenancy was cancelled when he paid rent.

Analysis

Based on the foregoing, the evidence and testimony, and on a balance of probabilities, I find the Notice to End Tenancy was cancelled through the actions of the Landlord. Once the Landlord accepted the rent without issuing the Tenant a receipt saying it was for use and occupancy only, the Landlord reinstated the tenancy. Therefore, the Notice is cancelled and is of no force or effect.

The Tenant is aware that rent is due in full on the first day of each month and the Landlord is at liberty to issue another Notice to End Tenancy failing the Tenant meeting that requirement.

Conclusion

The Landlord's Notice to End Tenancy dated August 16, 2010, is cancelled and is of no force or 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: October 20, 2010.

Dispute Resolution Officer