



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes CNR, ERP, FF, RP, RR

Introduction

A substantial amount of documentary evidence, photo evidence, and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties and the witness the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties and the witness.

All testimony was taken under affirmation.

Issues(s) to be Decided

First of all it is my decision that I will not deal with all the issues that the applicant has put on the application. For claims to be combined on an application they must related.

Not all the claims on this application are sufficiently related to the main issue to be dealt with together.

I therefore will deal with the request to cancel a Notice to End Tenancy and for the landlord to bear the cost of the filing fee, and I dismiss the remaining claims with liberty to re-apply.

Background and Evidence

The applicant testified that:

- October 31, 2010 she spoke to the landlord about paying her rent however as the landlord was busy she asked her to phoned back around noon.
- She phoned her back around noon and the landlord was still unable to meet her however the landlord told her she could put the cash through the mail slot into the basket at the manager's office and assured her that other people had paid their rent in cash in this manner.
- She therefore put the cash in an envelope along with a note and put the envelope through the mail slot, into the basket; however she felt this was an unsafe place to leave the money and therefore took it out of the basket and instead put it through the slot bypassing the basket so it would fall on the floor where no one could reach it.
- On October 1, 2010 when she phoned the landlord to get a receipt she was told by the landlord that no rented been received.
- She and the landlord met at the office and together search for the envelope but it was not found.
- Therefore in October 1, 2010, around noon, she filed a police report.

It is therefore her position that since she paid the rent through the mail slot as requested by the landlord is not her responsibility that the rent went missing.

The witness for applicant testified that:

- She witnessed the tenant put \$860.00 cash in an envelope along with a note.
- She went with the tenant to the manager's office and witnessed the tenant, at first, put the envelope into the basket through the mail slot.
- She then witnessed the tenant remove the envelope from the basket and saw the tenant put the envelope under the door.

The landlord testified that:

- She did tell the tenant that she could pay her rent in cash by putting it in an envelope and putting it through the slot in the manager's door into the basket.
- She also specifically told the tenant not to put it on the floor, make sure it goes in the basket as there is a gap under the door.
- She never found any rent on the floor in the office and initially when speaking with the tenant the tenant informed her that there had been no one present to witness or put the money through the door.
- It was not until later when speaking to the police that the tenant mentioned that there was a witness with her who saw her put the money through the mail slot.
- The bottom line is they have not received the rent for the month of November 2010 and that is why the Notice to End Tenancy was issued.

The landlords therefore believe that the Notice to End Tenancy should be upheld and that an Order of Possession should be issued based on that notice.

In response to the landlord's testimony the tenant testified that:

- When initially speaking to the landlord, the landlord did not ask her if there were any witnesses, the landlord asked if there was anyone suspicious who saw her put the money through the door. She does not consider her friend suspicious.

Analysis

Both the landlord and the tenant agree that the tenant was advised she could pay her rent by putting it through the mail slot into the basket; however that is not what the tenant did. The tenant testified that she put the envelope with the rent, through the mail slot, past the basket, and onto the floor.



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The tenant therefore did not pay her rent in the fashion agreed upon with the landlord and if that rent subsequently goes missing the tenant must bear the liability for that loss.

Further as I have previously stated, the tenant testified that she put the envelope with the rent through the mail slot and onto the floor; however her witness testified that she witnessed the tenant put the envelope under the door. And during her testimony the witness repeated the statement that she saw the tenant put the envelope under the door.

Therefore the witness's testimony contradicts the testimony given by the tenant.

Therefore it is my decision that the tenant has not met the burden of proving that she paid the November 2010 rent and I will not set the Notice to End Tenancy aside

Conclusion

The tenant's application to set aside the 10 day Notice to End Tenancy for non-payment of rent is dismissed and at the request of the landlord I have issued an Order of Possession. I further order that the tenant bear the \$50.00 cost of the filing fee that she paid for her application for dispute resolution.

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: December 02, 2010.

Dispute Resolution Officer