



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes CNR

Introduction

This was an application by the tenants to cancel a Notice to End Tenancy for unpaid rent. The hearing was conducted by conference call. The tenants and the landlord's representative participated in the hearing

Issues(s) to be Decided

Should the Notice to End Tenancy for unpaid rent dated November 8, 2010 be cancelled?

Background and Evidence

The tenants reside in a subsidized housing complex their monthly rent is \$293.00. The tenants paid their rent for October, 2010 on October 5th by a cash payment of \$123.00 and a cheque in the amount of \$170.00. The cheque was not honoured and was returned because there were insufficient funds in the account..

On November 5, 2010 the tenants paid the landlord the sum of \$483.00. the payments was for November's rent of \$293.00 plus October arrears of \$170.00 and an NSF cheque charge of \$20.00. After the payment was made the landlord served the tenants with a 10 day Notice to End Tenancy for unpaid rent that alleged that the tenants failed to pay \$103.00 that was due on November 1, 2010.

The landlord's representative agreed at the hearing that in arriving at the claim that the tenants failed to pay the sum of \$103.00 the landlord overlooked the cash payment of \$123.00 made by the tenants on October 5, 2010.

The landlord's representative said that the tenants owed the sum of \$30.00 for a stopped rent payment in June. No evidence was provided to support this statement and the amount was not part of the amount alleged to be unpaid by the Notice to End Tenancy given on November 8, 2010.

Analysis and Conclusion

The testimony of the parties and the receipts submitted by the tenants show that the tenants were not in arrears of rent when the Notice to End Tenancy was served on November 8, 2010. I therefore find that the 10 Day Notice to End Tenancy for unpaid rent dated November 8, 2010 is void and of no effect. The tenancy will continue. No filing fee was paid for this application and I do not award costs on this application.

The parties sought to discuss a hearing set for January, 2011 but that matter is not before me and I refused to hear from the parties with respect to that matter.

Dated: December 08, 2010.
