



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes CNR, ERP, RP

Introduction

This matter dealt with an application by the Tenant to cancel a Notice to End Tenancy for unpaid rent and for emergency repairs and other repairs to the rental unit.

The Tenant said she served the Landlord with the Application and Notice of Hearing (the “hearing package”) by posting the notice under the door of the Landlord’s office on or about December 15, 2010. Based on the evidence of the Tenant, I find that the Landlord was served with the Tenants’ hearing package as required by s. 89 of the Act and the hearing proceeded in the Landlord’s absence.

During the Hearing the Dispute Resolution Officer informed the Tenant that the application is to contest a Notice to End Tenancy for Unpaid Rent and the application for emergency repairs and other repairs by the Tenant is a separate and unrelated dispute to this application. In section 2.3 of the Residential Tenancy Branch Rules of Procedure (Dismissing unrelated disputes in a single application) a Dispute Resolution Officer may dismiss unrelated disputes within an application. The Tenants’ applications for emergency repairs and other repairs are dismissed with leave to reapply.

Issues(s) to be Decided

1. Is the Tenant entitled to an order to cancel the Notice to End Tenancy?

Background and Evidence

This tenancy started on April 1, 2009 as a month to month tenancy. Rent is \$600.00 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$300.00 in April, 2009.

The Tenant said the Landlord served her with a 10 Day Notice to End Tenancy for Unpaid Rent and Utilities dated December 2, 2010. She said it was posted on her door on December 2, 2010. The Effective Vacancy date on the Notice was December 12, 2010. The Tenant said she is living in the rental unit.

The Tenant continued to say that she agrees that she has unpaid rent, but she is not sure how much she owes in back rent. She said the Landlord does not give her



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receipts for her rent payments anymore. She said she may owe \$1,200.00 in pass rent and she has not paid the January, 2011 rent of \$600.00. The Tenant continued to say she would like a payment plan and time to pay the unpaid rent.

As well the Tenant said that the Landlord has changed recently and that has confused the issues between her and the Landlord.

Analysis

Section 26(1) says a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

The Tenant does not have the right to withhold all or a portion of the rent from the Landlord when it is due therefore; I find the Tenant has not established grounds to be granted an order to cancel the Notice to End Tenancy. The Landlord's 10 Day Notice to End Tenancy dated December 2, 2010 stands in effect.

Conclusion

The Tenant's application to cancel the Notice to End Tenancy is dismissed without leave to reapply.

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: January 05, 2011.

Residential Tenancy Branch