

DECISION

Dispute Codes CNR

Introduction

This hearing dealt with an application by the tenant to dispute a 10 day notice to end tenancy for unpaid rent. Both parties participated in the conference call hearing.

Issues to be Decided

Is the tenant entitled to any of the above under the Act.

Summary of Background and Evidence

This tenancy started January 1, 2011 with monthly rent of \$550.00 and the tenant paid a security deposit of \$275.00. On January 19, 2011 the landlord served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent.

The landlord testified that the tenant currently owes January 2011 rent of \$275.00 and February 2011 rent of \$550.00. The landlord stated that the tenant made a \$275.00 rent payment on February 2, 2011 and that the landlord did not give the tenant a receipt stating for 'use and occupancy only, does not reinstate tenancy'.

The tenant testified that he does owe the landlord the \$825.00 in unpaid rent but that he does not have the money and has not been able to find a new roommate to help with the rent. The tenant stated that he would vacate the rental unit as soon as possible but gave no indication as to when that would be. The tenant clearly understands that the landlord may file for a monetary order for unpaid rent.

Analysis

Based on the documentary evidence and testimony I find that while the tenant was properly served with the 10 day notice to end tenancy for unpaid rent, the landlord effectively reinstated the tenancy when rent was accepted after the notice was served and the landlord failed to give the tenant a receipt stating for 'use and occupancy only, does not reinstate tenancy'.

Accordingly, the notice to end tenancy is hereby set aside and the tenancy continues in full force and effect.

Conclusion

I therefore allow the tenant's application and set aside the landlord's Notice to End Tenancy for Unpaid Rent dated January 19, 2011 with the result that the tenancy continues uninterrupted.

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: February 8, 2011

Residential Tenancy Branch