



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes CNR

Introduction

This hearing dealt with an application by the tenants to cancel a notice to end tenancy for unpaid rent. The tenant participated in the conference call hearing but the landlord did not. The tenant presented evidence that the landlord was served with the application for dispute resolution and notice of hearing. I found that the landlord had been properly served with notice of the tenant's claim and the date and time of the hearing and the hearing proceeded in their absence.

Issue(s) to be Decided

Are the tenants entitled to any of the above under the Act.

Summary of Background and Evidence

On March 17, 2011 the landlord served the tenants with a 10 Day Notice to End Tenancy for Unpaid Rent.

The tenants testified that they have paid the January 2011 rent but that they pay the rent in cash and the landlord does not always provide them with receipts. The tenants stated that the landlord does not keep accurate records of the rent payments as this same situation occurred in December 2010. The tenants have submitted a hand-written receipt in to evidence for the January 2011 rent payment.

The tenants stated that they showed the receipt to the landlord who acknowledged the rent payment and commented that he had forgotten that they had paid the January 2011 rent. The tenants stated that the landlord did state to them that as the January 2011 rent was paid that the March 17, 2011 notice to end tenancy for unpaid rent was cancelled.

Analysis

Based on the undisputed documentary evidence and testimony of the tenants I find that the March 17, 2011, 10 Day Notice to End Tenancy for Unpaid Rent is invalid as the

tenants had in fact paid the rent in question. Therefore the March 17, 2011, 10 Day Notice to End Tenancy for Unpaid Rent is set aside and the tenancy continues in full force and effect.

As tenants pay the rent in cash and the landlord does not always provide the tenants with a receipt for the cash payment, I order that the landlord, per Section 26 (2) of the *Act*, provide the tenants with a receipt for any and all cash payments.

Residential Tenancy Act **Section 26 Rules about payment and non-payment of rent**

(1) 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.

(2) A landlord must provide a tenant with a receipt for rent paid in cash.

Conclusion

I therefore allow the tenant's application and set aside the landlord's 10 Day Notice to End Tenancy for Unpaid rent dated March 17, 2011 with the result that the tenancy continues uninterrupted.

I order that the landlord, per Section 26 (2) of the *Act*, provide the tenants with a receipt for any and all cash payments.

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: April 12, 2010

Residential Tenancy Branch