

## **DECISION**

Dispute Codes      CNR, FF, O

### Introduction

This hearing was convened in response to an application by the Tenant pursuant to the *Residential Tenancy Act* (the "Act") for Orders as follows:

1. An Order Cancelling a *10 Day Notice to End Tenancy for Unpaid Rent* (the "Notice") - Section 55;
2. An Order to recover the filing fee for this application - Section 72;
3. Other

The Tenant and Landlord were each given full opportunity to be heard, to present evidence and to make submissions.

### Issue(s) to be Decided

Is the Notice valid?

Is the Tenant entitled to recovery of the filing fee?

### Background and Evidence

The tenancy began on February 17, 2011. Rent in the amount of \$1,300.00 is payable in advance on the first day of each month. The Tenant failed to pay the full amount of rent for the month of June 2011 and on June 3, 2011 the Landlord served the Tenant with the Notice by posting it on the door. The Tenant filed an Application for Dispute Resolution and paid the rent owing on June 9, 2011. The Tenant asks that the Landlord be informed of the Tenants rights to freedom from harassment and right to peaceful enjoyment of her rental unit.

### Analysis

Section 46 of the Act requires that upon receipt of a Notice to End Tenancy for non-payment of rent the tenant must, within five days, either pay the full amount of the arrears indicated on the Notice or dispute the notice by filing an Application for Dispute

Resolution with the Residential Tenancy Branch. Based on the undisputed evidence of the Parties, I find that the Tenant paid the rent owing within 5 days of receiving the Notice. The Notice is therefore cancelled and of no effect.

Section 28 of the Act states as follows:

A tenant is entitled to quiet enjoyment including, but not limited to, rights to the following:

- (a) reasonable privacy;
- (b) freedom from unreasonable disturbance;
- (c) exclusive possession of the rental unit subject only to the landlord's right to enter the rental unit in accordance with section 29 [*landlord's right to enter rental unit restricted*];
- (d) use of common areas for reasonable and lawful purposes, free from significant interference.

Should the Tenant be subjected to behaviour or an action of the Landlord that breaches, limits or abridges the above rights, the Tenant is at liberty to make an application and seek any remedies that may be available to tenants under the Act.

As the Tenants application has been successful, I award the Tenant recovery of the filing fee and order the Tenant to reduce future rent payable by the amount of \$50.00.

### Conclusion

The Notice is cancelled. I Order the Tenant to reduce the next rent payable to the Landlord by the amount of \$50.00.

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: June 30, 2011.

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Residential Tenancy Branch