



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR

Introduction

This conference call hearing was convened in response to the tenant's application for a cancellation of a 10 Day Notice to End Tenancy.

Both parties attended the hearing and provided affirmed testimony. They were given a full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Should the Notice to End Tenancy be set aside?

Background and Evidence

The rental unit consists of an apartment in a multi-unit complex. Neither party submitted any documentary evidence to support their oral submissions. According to the landlord's agent, the tenancy was a fixed term starting August 1st, 2010 and ending July 31st, 2011; according to the tenant, the tenancy started August 1st, 2010 month to month. The parties did not dispute that rent is \$900.00 per month, and that the tenant moved in on August 1st jointly with an existing tenant. The landlord's agent stated that only the existing tenant signed the original agreement, and that this tenant was added but did not sign the agreement.

The tenant testified that sometime in February 2011 he went to the hospital after being assaulted by the existing tenant; and that upon his return the existing tenant had moved

out without notice. The tenant stated that his portion of the rent was always paid through social assistance; that he has been in arrears until he found a new co-tenant; and that since then rent is paid in full again. He said that on June 16th, 2011, the landlord's agent served him with only page 1 of a 10 Day Notice to End Tenancy for unpaid rent of \$1575.00, and that he did not receive page 2.

The landlord's agent testified that he recently took over as agent, and could not provide details on the departing tenant's circumstances. He stated that he believed that he served the tenant with both pages of the Notice to End Tenancy.

Analysis

Section 26(1) of the *Act* specifies in part that a tenant must pay the rent when it is due under the tenancy agreement whether or not the landlord complies with the *Act*. Although there was no separate tenancy agreement with the tenant's roommate, I am satisfied on the tenant's testimony that this was a joint tenancy. Both tenants were jointly responsible for meeting the terms of the tenancy agreement, and the landlord is entitled to recover the full amount of rent by any one of the tenants.

However, with no documentary evidence to support the parties' testimony, although I accept that notice was served on the tenant, I am unable to review its contents and determine whether it was properly served in accordance with the *Act*. The landlord did not file for dispute resolution and did not make an oral request for an order of possession during the hearing.

Conclusion

The tenant's application is dismissed and the tenancy may continue. The landlord is at liberty to apply for dispute resolution and to provide supporting evidence.

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: July 14, 2011.

Residential Tenancy Branch