



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR

Introduction

This hearing dealt with the Tenant's Application, seeking an order cancelling a 10 day Notice to End Tenancy for unpaid rent.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

Should the 10 day Notice to End Tenancy be cancelled?

Background and Evidence

The Landlord testified that the Tenant had failed to pay a portion of June 2011 rent and rent for July 2011. The Landlord also testified that the Tenant had failed to pay rent for August of 2011. The Landlord testified that she served the Tenant with a 10 day Notice to End Tenancy for unpaid rent on July 5, 2011, stating the Tenant had failed to pay rent in the amount of \$496.00. The effective date of the Notice is set out as July 15, 2011.

The Tenant testified he had a third party pay the rent directly to the Landlord. The third party was the Tenant's employer. The rent cheque was returned due to insufficient funds. The Tenant testified the Landlord should have called the third party when the rent cheque did not clear.

The Tenant further testified that he has applied for crisis funding from a government ministry.

The Tenant also testified that he did not pay the rent because he was trying to have one of his roommates removed from the rental unit.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find the Tenant's Application must be dismissed, for the following reasons.

The Tenant is responsible to pay the Landlord the rent. It is not up to the Landlord to contact the Tenant's employer for rent money.

Regardless of whether or not the Tenant is successful in his claim for emergency assistance, he is still required to pay the Landlord rent money in full on the first day of each month. By his own testimony he has failed to do so for three months.

Under section 26 of the Act, the Tenant may not withhold rent, unless there is an order from a Dispute Resolution Officer allowing him to do so, or if there is some other authority under the Act to withhold rent. There is no evidence of such an order or such authority in this instance.

For these reasons I find the Tenant's Application must be dismissed. The 10 day Notice to End Tenancy remains in full force and effect.

The Landlord did not orally request an order of possession following my dismissal of the Tenant's Application, pursuant to section 55 of the Act. Therefore, the Landlord must make its own Application for the applicable orders.

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: August 09, 2011.

Residential Tenancy Branch