

DECISION

Dispute Codes: CNR

Introduction

By application of August 31, 2011, the tenants sought to have set aside a 10-day Notice to End Tenancy for unpaid rent, not submitted but said by the tenant to be dated August 24, 2011.

Despite having been served with the Notice of Hearing in person to the building manager who stated he would pass it to the property manager according to the tenant, no representative of the landlord called in to the number provided to enable their participation in the telephone conference call hearing. Therefore, it proceeded in their absence.

Issues to be Decided

This dispute requires a decision on whether the Notice to End Tenancy should be set aside or upheld.

Background and Evidence

While no rental agreement was submitted into evidence, the tenants gave evidence that this tenancy began on January 1, 2010. Rent is \$825 per month and the landlord holds a security deposit of \$412.50.

As noted, neither the applicant tenants nor the landlord have submitted any documentary evidence, but the tenants stated that rent is fully up to date and was at time of service of the Notice to End Tenancy.

Analysis

Given the lack of documentary evidence and the fact that the landlord did not participate in the hearing, I am not in a position to make any material findings in this dispute.

However, I would note the landlord would require an Order of Possession in order to impose an end to the tenancy and such an order can only be obtained through a hearing.

As the landlord did not appear or provide evidence for the present hearing, and seems not to have made a separate application, there is no record of the landlord attempting to enforce the Notice to End Tenancy. At present, it appears that the landlord has accepted that the tenancy will continue.

Conclusion

The application is dismissed with leave to reapply if necessary.

September 28, 2011