



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, FF

Introduction

This hearing dealt with the tenant's Application for Dispute Resolution to cancel a notice to end tenancy.

The hearing was conducted via teleconference and was attended by the tenant only. The landlord did not attend.

The tenant testified that he received his notice of hearing documents on August 15, 2011 and that he served the landlord with this notice and his Application on August 17, 2011 personally to the attended at the landlord's onsite office.

I accept the landlord has been served sufficiently for the purposes of this hearing.

Issue(s) to be Decided

The issues to be decided are whether the tenant is entitled to cancel a 10 Day Notice to End Tenancy for Unpaid Rent and to recover the filing fee from the landlord for the cost of the Application for Dispute Resolution, pursuant to Sections 46, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The tenant testified the tenancy began in April 2010 as a month to month tenancy for a monthly rent of \$375.00 due on the 1st of each month with a security deposit of \$187.50 paid. The tenant stated no written tenancy agreement was provided to him.

The tenant submitted into evidence a copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated and signed by the landlord on August 10, 2011 with an effective vacancy date of August 21, 2011 resulting from the tenant's failure to pay rent in the amount of \$3,750.00 that was due on August 1, 2011 and failure to pay utilities in the amount of \$3,750.00 following written demand on August 21, 2011.

The tenant acknowledges that he owed some rent to the landlord but that through discussions he thought that the debt had been forgiven by the landlord. In addition, the tenant states that he is not responsible for the payment of utilities in his unit and that no one else in the rental unit pays utilities either.

Analysis

In the absence of any evidence or testimony from the landlord, I accept the tenant's testimony that he is not responsible for utility payments. In addition, as the notice was issued on August 10, 2011, I fail to understand how the landlord provided a written demand for payment of utilities on August 21, 2011, a date later than the date the Notice was issued on.

For these reasons, I find the 10 Day Notice to End Tenancy issued to the tenant on August 10, 2011 to be of no effect.

Conclusion

Based on the above, I grant the tenant's Application and find the tenancy to be in full force and effect.

As the tenant was successful in his Application, I find he is entitled to recovery from the landlord for the cost of his Application in the amount of \$50.00. I order the tenant may deduct this amount from a future rent payment in accordance with Section 72(2) of the *Act*.

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: September 15, 2011.

Residential Tenancy Branch