

## **DECISION**

Dispute Codes      CNR, FF

### Introduction

This is an application filed by the Tenant to cancel two notice to end tenancy documents for unpaid rent and recovery of the filing fee.

The Tenant attended the hearing by conference call and gave undisputed testimony. The Landlord did not attend.

### Issue(s) to be Decided

Is the Tenant entitled to an order to cancel the two, 10 day notices to end tenancy for unpaid rent?

### Background and Evidence

The Tenant attended the hearing by conference call and gave undisputed testimony. The Tenant claims that the Landlord was served with the notice of hearing and evidence package by registered mail on September 16, 2011. The Tenant has provided the Canada Post Registered Mail Tracking Number, 79527648985 in their direct testimony.

The Tenants were served with two 10 day notices to end tenancy for unpaid rent on September 2, 2011 and again September 13, 2011. The Tenants states that the monthly rent of \$1,050.00 was due on September 1, 2011. The Tenants have provided copies of three cancelled cheques, two dated on September 1, 2011 and one on September 3, 2011. The amount for the cheques totals, \$1,075.00. The Tenant states that the \$25.00 overage was for a late fee. The Tenant has also provided information that the cheques were all posted on September 6 and 8 of 2011. The Tenant states since the notices were served on them by the Landlord that no contact of any kind has been made by the Landlord.

### Analysis

I accept the Tenant's undisputed testimony and I find that the Landlord was properly served with the notice of hearing and evidence packages. I find that the Tenant did pay the outstanding rent and the Landlord has accepted that the Tenancy shall continue by

accepting the payments. Based upon the evidence submitted and the undisputed testimony of the Tenants that both of the Landlord's 10 day notices to end tenancy for unpaid rent dated September 2 and 8<sup>th</sup> of 2011 are cancelled. The Tenancy shall continue.

The Tenant is also entitled to recovery of the \$50.00 filing fee. I order that the Tenants may withhold \$50.00 from November 2011 rent payment in satisfaction of this award.

### Conclusion

The Tenant's application to cancel the two notices to end tenancy for unpaid rent is granted and the Tenancy shall continue.

The Tenant's may withhold \$50.00 from the November 2011 rent to recovery their filing fee in satisfaction of this application.

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: October 17, 2011.

---

Residential Tenancy Branch