



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 cancel a *10 Day Notice to End Tenancy for Unpaid Rent or Utilities* (the Notice) issued September 20, 2011.

The Tenant gave affirmed testimony at the Hearing

The Tenant testified that he served the Landlord with the Notice of Hearing documents by handing the documents to the Landlord's agent at the rental property on September 22 or September 23, 2011.

Based on the affirmed testimony of the Tenant, I am satisfied that the Landlord was duly served with the Notice of Hearing documents in accordance with the provisions of Section 89(1)(b) of the Act and within the time frame provided in Section 59(3) of the Act. Despite being served with the Notice of Hearing documents, the Landlord did not sign into the teleconference and the Hearing continued in its absence.

Issue to be Decided

Should the Notice issued September 20, 2011, be cancelled?

Background and Evidence

The Tenant gave the following affirmed testimony:

This tenancy began in 2005. Monthly rent is currently \$820.00, due on the first day of each month. The Tenant testified that he also paid \$15.00 per month for underground parking until September, 2011, when he began parking on the street.

The Tenant testified that he does not owe any rent to the Landlord.

Analysis

The Tenant provided a copy of the Notice in evidence. The Notice indicates that the Tenant failed to pay parking in the amount of \$165.00 that was due on November 1, 2011.

A parking fee is not rent. There is no provision in the Act for a Landlord to issue a notice to end a tenancy for unpaid parking. Therefore, I find that the Notice issued September 20, 2011, is not a valid notice.

The Tenant's application is granted. The tenancy remains in full force and effect until it is ended in accordance with the provisions of the Act.

The Tenant has been successful in his application and is entitled to recover the cost of the \$50.00 filing fee from the Landlord.

Pursuant to the provisions of Section 72 of the Act, I order that the Tenant may deduct \$50.00 from future rent due to the Landlord.

Conclusion

The Notice to End Tenancy issued September 20, 2011, is cancelled. The tenancy remains in full force and effect until it is ended in accordance with the provisions of the Act.

The Tenant is entitled to recover the cost of the filing fee and I order that the Tenant may deduct \$50.00 from future rent due to the Landlord.

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 21, 2011.

Residential Tenancy Branch