



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR

Introduction

This hearing was convened in response to an application by the Tenant pursuant to the *Residential Tenancy Act* (the “Act”) for an Order cancelling a 10 Day Notice to End Tenancy for non-payment of rent (the “Notice”) (s.36).

The Landlord and Tenant were each given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Notice valid?

Background and Evidence

The tenancy began on March 1, 2011. Rent in the amount of \$850.00 is payable in advance on the first day of each month. At the outset of the tenancy, the Landlord collected a security deposit from the Tenant in the amount of \$425.00. The Parties agree that in August 2011 an agreement was made between the Parties for the removal of articles from the unit’s premises and instead of paying money to the Tenant for this agreement, the Landlord reduced rent payable for October 2011 in this amount. In November 2011, the Landlord decided that the Tenant did not live up to the agreement for which the Landlord had provided reduced rent and on November 8, 2011, the Landlord served the Tenant with the Notice for unpaid rent from October 2011 in the amount disputed. Materials filed by the Landlord indicate that rent was paid for October 2011 and there is no dispute that November rent has been paid as well.

Analysis

Section 46 of the Act provides that a landlord may end a tenancy if rent is unpaid on any day after the day it is due. As the amount in dispute between the Parties is not in relation to rent, I find that the Notice is not valid and that the Tenant is therefore entitled to a cancellation of the Notice.

Conclusion

The Notice is cancelled and the tenancy continues.

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: November 29, 2011.

Residential Tenancy Branch