



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, CNR

Introduction

This hearing was convened by way of conference call in repose to the tenants application to cancel a One Month Notice to End Tenancy and a 10 Day Notice to End Tenancy.

Service of the hearing documents, by the tenant to the landlord, was done in accordance with section 89 of the *Act*, the tenant gives sworn testimony that the landlord was served in front of a witness with the hearing documents on December 06, 2011.

The tenant appeared, gave sworn testimony, was provided the opportunity to present his evidence orally, in writing, and in documentary form. There was no appearance for the landlord, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*.

All of the testimony and documentary evidence was carefully considered.

Issue(s) to be Decided

- Is the tenant entitled to have the One Month Notice to End Tenancy cancelled?
- Is the tenant entitled to have the 10 Day Notice to End Tenancy cancelled?

Background and Evidence

The tenant testifies that he does not recall when his tenancy started but his monthly rent is \$765.00 and is due on the first day of each month. The tenant testifies that on November 23, 2011 the landlord served the tenant with a 10 Day Notice to End Tenancy for unpaid rent and a One Month Notice to End Tenancy for cause.

The tenant testifies that he gave the landlord \$765.00 on December 22, 2011 and the landlord has accepted this rent and did not notify the tenant that it was accepted for use and occupancy only. The tenant disputes the four reasons given on the One Month Notice to End Tenancy.

Analysis

In the matter of the One Month Notice to End Tenancy, the landlord has the burden of proof and must show (on a balance of probabilities) that grounds exist (as set out on the Notice to End Tenancy) to end the tenancy. This means that if the landlord provides no evidence to support the reasons given on the Notice, the landlord has not met the burden of proof. Therefore, I find in the absence of evidence to show that grounds exist to end the tenancy the One Month Notice is cancelled.

In the matter of the 10 Day Notice to End Tenancy, the tenant states he paid the outstanding rent on December 22, 2011. The tenant also states the landlord accepted this rent and did not notify the tenant that it was for use and occupancy only. The landlord has provided no evidence to show otherwise and consequently it is my decision that the landlord has reinstated the tenancy. Therefore, the 10 Day Notice is also cancelled and the tenancy will continue.

Conclusion

The tenant's application is allowed. The one Month Notice to End Tenancy for Cause dated November 23, 2011 and the 10 Day Notice to End Tenancy for unpaid rent dated November 23, 2011 are cancelled and the tenancy will continue.

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: December 23, 2011.

Residential Tenancy Branch