



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR OLC RP PSF LAT FF O

Introduction

This hearing dealt with an application by the tenants to cancel a notice to end tenancy, as well as for an order that the landlord comply with the Act; an order for repairs; an order that the landlord provide services or facilities required by law; and an order authorizing the tenants to change the locks. The two tenants and the landlord all participated in the teleconference hearing.

I determined that the issue of the notice to end tenancy took precedence, and only heard evidence on that issue. I will address the remainder of the tenant's application in the conclusion of my decision.

The landlord submitted late evidence that he stated he personally served on the tenants last week. The tenants deny receiving the evidence. The landlord did not provide sufficient evidence to establish that he served the tenants with his evidence; therefore, I did not admit or consider the landlord's documentary evidence.

I have reviewed all testimony and other admissible evidence. However, only the evidence relevant to the issues and findings in this matter are described in this decision.

Issue(s) to be Decided

Is the notice to end tenancy valid?

Background and Evidence

The tenants began renting the upper portion of the rental house in November 2011. On March 6, 2012 the landlord gave the tenants a written demand for utilities in the amount of \$1,155.56. On March 19, 2012 the landlord served the tenants a 10 day notice to end tenancy for unpaid rent or utilities. The notice indicates that the tenants failed to pay \$1,155.56 in utilities after receiving the written demand to pay the utilities on March 6, 2012.

Landlord's Evidence

The landlord stated that as set out in the tenancy agreement, the tenants are responsible for 70 percent of the hydro. The landlord did not receive a hydro bill in January 2012. He received a bill for 4 months of hydro in March 2012. The landlord gave the tenants a written demand for 70 percent of the hydro bill on March 6, 2012, and he served them the notice to end tenancy on March 19, 2012. The tenants have not paid the hydro bill.

Tenants' Response

There is no signed tenancy agreement. The notice to end tenancy is not valid, because it was served less than 30 days after the landlord served the tenants the written demand for the hydro. The tenants dispute the amount of hydro the landlord has claimed, as the hydro was being paid in equal instalments and then the outstanding balance for the year was added on to the bill. The tenants should not be responsible for 70 percent of the outstanding balance, as they did not move into the upper unit until November 2011.

Analysis

I find that the notice to end tenancy is not valid, as the landlord served the notice less than 30 days after serving the written demand for utilities.

As the tenants were successful in their application to cancel the notice to end tenancy, I find they are entitled to recovery of the \$50 filing fee for the cost of their application.

Conclusion

The notice to end tenancy dated March 19, 2012 is cancelled, with the effect that the tenancy continues.

I grant the tenants a monetary order for the balance due of \$50. This order may be filed in the Small Claims Court and enforced as an order of that Court.

The remainder of the tenants' application is dismissed with leave to reapply.

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: April 11, 2012.

Residential Tenancy Branch