



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNR, CNC, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant to cancel a Ten-Day Notice to End Tenancy for Unpaid Rent dated March 19, 2012 and a One-Month Notice to End Tenancy for Cause dated March 19, 2012. Both parties appeared and gave testimony during the conference call.

Issue(s) to be Decided

The issues to be determined based on the testimony and the evidence are:

- Whether the Ten-Day Notice to End Tenancy for Unpaid Rent should be cancelled.
- Whether the One Month Notice to End Tenancy for Cause should be cancelled.

The burden of proof is on the landlord/respondent to justify the reason for the Notices.

Background and Evidence

The tenancy began in April 2010 and the current rent is \$830.00 per month.

No evidence was submitted to Residential Tenancy Branch by the applicant/tenant in support the application. However, the landlord testified that the evidence was served on the respondent landlord.

The tenant acknowledged that he was in arrears for rent. The landlord testified that there was some confusing due to miscommunications from the previous property manager with respect to the amounts owed. The tenant testified that the landlord in the past, had attempted to levy extra monthly charges that were not in the agreement and not permitted under the Act. The tenant also testified that a change in management has also made matters a bit confusing.

However, both parties did agree that the tenant now owes \$1,660.00 rent for the months of March and April, 2012 and that he will pay these arrears within the next few days.

The parties also agreed that the method of payment would be preauthorized withdrawals from the tenant's account to avoid late payments and make payment easier.

Analysis

Section 26 of the Act states that rent must be paid when it is due, under the tenancy agreement, whether or not the landlord complies with the Act, the Regulation or the tenancy agreement. When a tenant fails to comply with section 26, section 46 of the Act permits the landlord to end the tenancy by issuing a Ten-Day Notice effective on a date that is not earlier than 10 days after the date the tenant receives it.

This section of the Act also provides that, within 5 days after receiving a notice under this section, a tenant may dispute the notice by making an application for dispute resolution. In this instance I find that the tenant did make an application to dispute the Notice within the five-day period.

In addition, the Act also provides that within 5 days after receiving a notice under this section, the tenant may pay the overdue rent, in which case the notice has no effect.

The above data is to clarify responsibilities for payment of rent. However, given that the parties reached an agreement with respect to the rental arrears and the future payment of rent, I find that both the Ten Day Notice to End Tenancy for Unpaid Rent and the One Month Notice to End Tenancy for Cause should be cancelled.

Conclusion

Based on the above, I hereby cancel the Ten Day Notice to End Tenancy for Unpaid Rent dated March 19, 2012 and the One-Month Notice to End Tenancy for Cause dated March 19, 2012 and order they are of no force nor effect.

The tenant is not entitled to be reimbursed for the cost of filing the 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: April 16, 2012.

Residential Tenancy Branch