



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 section 46 of the *Residential Tenancy Act* (the “Act”) for an Order cancelling a Notice to End Tenancy.

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

Issue(s) to be Decided

Is the Notice to End Tenancy valid?

Background and Evidence

The tenancy began on March 1, 2011. Rent of \$782.00 is currently payable on a monthly basis and due on or before the first. At the onset of the tenancy the Landlord collected a security deposit of \$375.00. On May 1, 2012, the Tenant failed to pay the full rent and owed \$375.00. On May 2, 2012 the Landlord served the Tenant with a 10 day Notice to End Tenancy for Unpaid Rent (the “Notice”) by posting the Notice on the door. The Tenant immediately applied for emergency funding and a cheque was approved for forwarding to the Landlord within the week however due to an administrative error, the cheque was not placed in the mail until May 17, 2011. The Landlord acknowledges that the emergency funds cheque was received late in the month of May 2012. The Landlord did not provide a receipt to the Tenant for this amount and did not note that the monies were being accepted for use and occupancy only.

Analysis

Section 46 of the Act requires that upon receipt of a Notice to End Tenancy for non-payment of rent the tenant must, within five days, either pay the full amount of the arrears indicated on the Notice or dispute the notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch. If the landlord accepts rent after the effective date of the Notice to End Tenancy, the intent of the parties will determine whether the tenancy has been reinstated. Given the Landlord's evidence that the rent has been paid in full and that the Tenant was not given a receipt for the payment of rent indicating that the amount was being accepted for use and occupancy only, I find that the Landlord has reinstated the tenancy and that the Notice is no longer valid. The tenancy continues.

Conclusion

The tenancy has been reinstated, the Notice is no longer valid and the tenancy continues.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: May 28, 2012.

Residential Tenancy Branch