



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

CNR, FF

Introduction

This hearing was scheduled in response to the Tenant's Application for Dispute Resolution, in which the Tenant has made application to set aside a Notice to End Tenancy for Unpaid Rent and to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution.

Both parties were represented at the hearing. They were provided with the opportunity to submit documentary evidence prior to this hearing, to present oral evidence, to cross-examine the other party, and to make submissions to me.

Issue(s) to be Decided

The issue to be decided is whether the Notice to End Tenancy for Unpaid Rent, served pursuant to section 46 of the *Residential Tenancy Act (Act)*, should be set aside and whether the Tenant is entitled to recover the fee for filing this Application for Dispute Resolution.

Background and Evidence

The Landlord and the Tenant agree the Tenant was required to pay monthly rent of \$700.00 by the first day of each month during the latter part of this tenancy, and that the Tenant has not yet paid rent that was due on June 01, 2012.

The Landlord and the Tenant agree that a Ten Day Notice to End Tenancy for Unpaid Rent, which had a declared effective date of June 14, 2012, was posted at the rental unit on June 04, 2012. The Notice indicated that the Notice would be automatically cancelled if the Landlord received \$700.00 within five days after the Tenant is assumed to have received the Notice. The Notice also indicated that the Tenant is presumed to have accepted that the tenancy is ending and that the Tenant must move out of the rental by the date set out in the Notice unless the Tenant files an Application for Dispute Resolution within five days.

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Analysis

Section 26(1) of the *Act* stipulates, in part, that a tenant must pay rent when it is due unless the tenant has a right under the *Act* to deduct all or a portion of the rent. On the basis of the undisputed evidence presented at the hearing, I find that the Tenant has not yet paid the rent that was due on June 01, 2012. In the circumstances before me, there is no evidence to indicate that the Tenant has the right to deduct any portion of the rent.

Section 46(1) of the *Act* stipulates, in part, that a landlord may end a tenancy if the tenant fails to pay rent that is due, providing notice is served to the Tenant. On the basis of the undisputed evidence presented at the hearing, I find that a ten Day Notice to End Tenancy was posted at the rental unit on June 04, 2012.

Conclusion

I find that the Landlord has established she has grounds to end this tenancy pursuant to section 46 of the *Act*. I therefore dismiss the Tenant's application to set aside the Notice to End Tenancy, and I grant the Landlord an Order of Possession, as requested at the hearing, that is effective two days after it is served upon the Tenant.

I find that the Tenant's application is without merit, and I dismiss the Tenant's application to recover the filing fee from the Landlord for the cost of this Application for Dispute Resolution.

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: June 27, 2012.

Residential Tenancy Branch