



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

CNR; OLC; FF

Introduction

This hearing dealt with the Tenants' application cancel a *10 Day Notice to End Tenancy for Unpaid Rent or Utilities* (the Notice) issued May 20, 2012; for an Order that the Landlord comply with the Act, regulation or tenancy agreement; and to recover the cost of the filing fee from the Landlord.

The parties gave affirmed testimony and had an opportunity to be heard and respond to other party's submissions.

It was established that the Landlord received the Notice of Hearing documents in accordance with the requirements of the Act.

Preliminary Matters

The Tenants provided insufficient details with respect to their application that the Landlord be ordered to comply with the Act, regulation or tenancy agreement and therefore this portion of their application is dismissed with leave to reapply.

Issue to be Decided

Should the Notice issued May 20, 2012, be cancelled?

Background and Evidence

The parties were in agreement to the following facts:

- Rent is due on the first day of each month.
- Monthly rent does not include utilities.

The Landlord testified that the Tenants owe rent in the amount of \$1,180.00 prior to May, 2012; \$370.00 for May, 2012, and also \$1,020.00 for June, 2012. The Landlord testified that he issued another Notice to End Tenancy for unpaid rent on June 4, 2012.

The Tenants testified that they believe they only owe \$90.00 in unpaid rent for May, 2012. They stated that they owe a total of \$850.00, but some is for utilities. The Tenants stated that they are moving out of the rental unit by June 21, 2012.

Analysis

A copy of the Notice issued May 20, 2012, which is the Notice that the Tenants seek to cancel, was provided in evidence. Section 52(e) of the Act requires that a notice to end tenancy when given by a landlord must be in the approved form. The Notice issued May 20, 2012, is not in the approved form and therefore I find it is not a valid Notice to End Tenancy.

The Tenants have been successful in their application and I find that they are entitled to recover the cost of the filing fee from the Landlord. Pursuant to the provisions of Section 72 of the Act, the Tenants may deduct the amount of \$50.00 from rent owing to the Landlord.

Conclusion

I find that the Notice to End Tenancy issued May 20, 2012 does not comply with Section 52(e) of the Act and is therefore not a valid Notice. The tenancy remains in full force and effect until it is ended in accordance with the provisions of the Act.

The Tenants may deduct \$50.00, in recovery of the cost of the filing fee, from rent due to the Landlord.

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 18, 2012.

Residential Tenancy Branch