



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR O

This hearing dealt with the tenant's Application for Dispute Resolution under the *Residential Tenancy Act* (the "Act"), seeking to cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, and "other", however, the tenant did not provide details as to the "other" remedy sought under the *Act* in the application for dispute resolution.

The tenant and the agent for the landlord attended the hearing. The parties gave affirmed testimony, were provided the opportunity to present their evidence orally and in documentary form prior to the hearing, and make submissions to me.

A copy of the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "Notice") was provided as evidence prior to the hearing. Both parties had a copy of the Notice that was referred to during the hearing.

Issue to be Decided

- Should the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities be cancelled?

Background and Evidence

The parties confirmed that the tenant moved into the rental unit on or about February 1, 2012. The parties dispute the amount of monthly rent. The agent for the landlord stated that monthly rent is \$800.00 per month. The tenant affirmed that his monthly rent is \$550.00, however, in his application for dispute resolution, states that monthly rent is \$800.00.

The agent for the landlord testified that she dated the Notice on July 31, 2012, however, did not serve the Notice until August 2, 2012. The Notice included an effective date of July 30, 2012 for unpaid rent in the amount of \$1,875.00 due on August 1, 2012.

The tenant stated that he received the Notice on August 2, 2012 and disputed the Notice on August 3, 2012.

Analysis

Based on the documentary evidence and the oral testimony provided during the hearing, and on the balance of probabilities, I find the following.

The landlord served the tenant with the Notice dated July 31, 2012, for rent owed on August 1, 2012 and with an effective date of July 30, 2012.

I find that the landlord did not provide the Notice in accordance with the *Act*. The landlord dated the Notice before rent was due making the Notice premature. The landlord may only issue a Notice under the *Act* after the date the rent is due, and with an effective date that is no earlier than 10 days after the date of service of the Notice. Therefore, **I cancel** the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities. **I order** that the tenancy continues until ended in accordance with the *Act*.

Conclusion

I cancel the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities.

For the benefit of both parties, I am including a copy of *A Guide for Landlords and Tenants in British Columbia* with my Decision.

This decision is final and binding on the parties, except as otherwise provided under the Act, and 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: September 05, 2012

Residential Tenancy Branch