



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MT, CNR

Introduction

This hearing dealt with the tenants' Application for Dispute Resolution seeking more time to cancel a notice to end tenancy and to cancel a notice to end tenancy.

The hearing was conducted via teleconference and was attended by the female tenant and the landlord

Issue(s) to be Decided

The issues to be decided are whether the tenants are entitled to more time to cancel a notice to end tenancy and to cancel a 10 Day Notice to End Tenancy for Unpaid Rent, pursuant to Sections 46 and 66 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The parties agree the tenancy began in August, 2012 as a month to month tenancy with the monthly rent due on the 1st of each month and a security deposit of \$325.00 was paid. The parties disagree as to the amount of rent per month – the landlord states it was \$650.00 and the tenant submits it was \$600.00.

The parties also agree the landlord issued a 10 Day Notice to End Tenancy for Unpaid Rent on October 10, 2012 with an effective vacancy date of October 25, 2012 due to \$650.00 in unpaid rent.

The tenant testified that because the landlord was not fulfilling her obligations to maintain the rental unit the tenants stopped paying rent owed beginning in October 2012.

The landlord testified that the tenants were served the 10 Day Notice to End Tenancy for Unpaid Rent by posting it to the rental unit door on October 10, 2012.

The Notice states the tenants had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenants did not pay the rent in full or apply to dispute the Notice to End Tenancy within five days. The tenant testified that she had not filed a notice to dispute the notice until October 20, 2012 because she had not read the notice fully and did not realize that she had to apply within the 5 day time frame.

The tenant also testified that the landlord refused her payment of rent that she had offered. The landlord testified the tenant had offered to pay \$425.00 within a few days and that she would pay the balance when she got her next cheque. The tenant testified that she would have been able to pay the entire rent amount owing by approximately October 20, 2012.

Analysis

I have reviewed all documentary evidence and accept that the tenants have been served with notice to end tenancy as declared by the landlord. The notice is deemed to have been received by the tenants on October 13, 2012 and the effective date of the notice is amended to October 23, pursuant to Section 53 of the *Act*.

Section 66 of the *Act* allows extending a deadline for filing an Application for Dispute Resolution only in exceptional circumstances such as being hospitalized. Section 66 does not provide an opportunity to extend a time limit because a party did not read a legal document fully. As such, I find the tenant is not entitled to more time to submit her Application for Dispute Resolution.

While I accept the tenant made an offer to the landlord to make payment of the rent the offer included a requirement the landlord would not receive rent until after the 5 day time limit allowed under the *Act* there is no requirement for the landlord to reinstate a tenancy under these circumstances.

I accept the evidence before me that the tenants failed to pay the rent owed in full or file an Application for Dispute Resolution within the 5 days granted under Section 46(4) of the *Act*.

Conclusion

Based on the foregoing, I find the tenants are conclusively presumed under Section 46(5) of the *Act* to have accepted that the tenancy ended on the effective date of the Notice and must vacate the rental unit.

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: December 03, 2012.

Residential Tenancy Branch