



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, FF

Introduction

This is an application filed by the Tenant to cancel a notice to end tenancy issued for unpaid rent and to recover the filing fee.

Both parties attended the hearing and have confirmed receipt of the notice of hearing and evidence packages submitted by the other party. As such, I am satisfied that both parties have been properly served with the notice of hearing and evidence for this hearing.

At the beginning of the hearing the Landlord stated in her direct testimony that the Tenant made a late rent payment on January 13, 2013. The Tenant has confirmed this. The Landlord states that no receipts/notice was issued for the late rent payment.

Issue(s) to be Decided

Is the Tenant entitled to an order cancelling the notice to end tenancy for unpaid rent?

Background, Evidence and Analysis

Both parties agreed that the Tenant was served with a 10 day notice to end tenancy issued for unpaid rent and utilities dated January 8, 2013. The notice states that rent of \$650.00 was due and unpaid on January 1, 2013 and that utilities are due of \$259.94 following a written demand in October of 2012. The effective date of the notice is January 8, 2013. The Tenant disputes that any written demand was given in October. The Landlord has confirmed this in her direct testimony and refers to a letter dated December 10, 2012 submitted by the Tenant.

I find based upon the evidence of both parties that the Landlord did not serve a written demand of utilities owed to the Tenant in October 2012 as stated by the notice dated January 8, 2013. As the Landlord has acknowledged that rent was paid on January 13, 2013 without notice that the Landlord was still seeking an end to the tenancy, I find that

the Landlord reinstated the Tenancy after the effective date of the notice dated January 8, 2013. The Tenant has established a claim to cancel the notice to end tenancy dated January 8, 2013. The Tenant is entitled to recovery of the \$50.00 filing fee.

As the Tenancy is continuing, I order that the Tenant may withhold one-time \$50.00 from the next months rent upon receipt of this decision as recovery of the filing fee.

Conclusion

The Tenant's Application to cancel the notice to end tenancy dated January 8, 2013 is granted. The Tenant may withhold one-time \$50.00 from the next months rent due.

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: February 04, 2013

Residential Tenancy Branch

