



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, MNDC

Introduction

This hearing was convened in response to an application filed by the tenant. The tenant is seeking to cancel a Notice to End Tenancy given for unpaid rent and he is seeking a monetary Order for compensation for damage or loss in the amount of \$100.00.

Both parties appeared at the hearing of this matter and gave evidence under oath.

Issue(s) to be Decided

Does the landlord have cause (unpaid rent) to end this tenancy? Has the tenant met the burden of proving he is entitled to \$100.00 in compensation for damage or loss?

Background and Evidence

At the hearing of this matter the parties agreed that the tenant has now paid the outstanding rent which payment has been accepted by the landlord and the tenancy reinstated.

The issue of the unpaid rent arose out of a Notice of Rent Increase which the landlord says was served in October 2012. That Notice was filed in evidence by the tenant. It is dated as having been issued on October 29, 2012 and indicates that the rent would increase by the allowable 3.8% or \$15.05 on February 1, 2013. The tenant did not pay the new rent on February 1, 2013 and a 10 day Notice to End Tenancy was issued on February 5, 2013 in the amount of \$15.05. While the sum has now been paid the tenant says he was never properly served with the Notice of Rent Increase. The tenant submits that he only became aware of the rent increase when the parties appeared at another hearing on January 30, 2012 with respect to other matters.

The landlord testified that the Notice was served as all other notices are served and that is by posting to the rental unit door and that this was witnessed.

The tenant submits that the rental unit is a single room occupancy building and the landlord posts notices on the door as his peril as such notices can and are frequently removed by other occupants and guests. The tenant submits that he never received the Notice.

Although the tenant did pay the increase for March he says that he considers this payment an overpayment and he seeks the arbitrator to make a finding as to when he was “served” with the Notice of Increase and when the rent increase should begin.

The landlord agrees to abide by the ruling of the arbitrator in this regard.

With respect the \$100.00 claimed the tenant says this is for costs incurred in pursuing his claims.

Analysis

As the parties agree that the rental arrears have now been paid, accepted and the Notice to End Tenancy cancelled this tenancy will continue as though that Notice had not been served.

With respect to the timing of the rental increase, the purpose of service is to ensure that one party has notice of something that is about to take place thereby allowing the party time to prepare for the upcoming event. In this case while the tenant denies having been served by one of the means of service set out in the *Residential Tenancy Act*, the parties agree that the tenant did become aware of the increase at a hearing held on January 30, 2013. I will therefore find that the tenant received notice of the rent increase on January 30, 2013. The tenant is entitled to three months’ notice of such increases and I will therefore direct that his rent shall increase by \$15.05 (going from \$398.07 per month to \$411.12 per month) on May 1, 2013. However, as the tenant has already paid the increase with his March 1, 2013 payment I direct that on May 1, 2013 the tenant will pay \$398.07 for rent due that date and on June 1, 2013 and thereafter until the rent is increased again as may be allowed under the Act, the tenant shall pay \$411.12.

With respect to the tenant’s claim for \$100.00 for “costs incurred” the fee for the tenant’s application was waived. The only cost the Act allows me to award in favour of a party is the \$50.00 filing fee. As that fee has not been paid the claim for costs is dismissed.

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: March 11, 2013

Residential Tenancy Branch

