



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, FF

Introduction

Some documentary evidence and written arguments have been submitted prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties and the witness the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties and the witness.

All testimony was taken under affirmation.

Issue(s) to be Decided

This is a request to cancel a Notice to End Tenancy that was given for nonpayment of rent and a request for recovery of the \$50.00 filing fee.

Background and Evidence

The landlord testified that:

- the tenant has outstanding rent as follows:

January 2013 rent outstanding	\$75.00
February 2013 rent outstanding	\$1075.00

March 2013 rent outstanding	\$735.00
April 2013 rent outstanding	\$725.00
May 2013 rent outstanding	\$1475.00
Total	\$4085.00

- Since rent had fallen behind by such a large amount, he decided to post a Notice to End Tenancy on the tenant's door on April 10, 2013.
- He is fully willing to allow her to stay if she pays the full outstanding rent, however if she is unable to do so he is requesting an Order of Possession.

The tenant testified that:

- She does not owe any rent at all, as the full rent has been paid every month in cash to the landlord.
- The landlord does not give receipts and therefore she has no way of showing how much was paid.
- Every time she has paid the rent to the landlord, her sister has accompanied her and has witnessed her paying the full amount of rent each month.
- She is therefore asking that this Notice to End Tenancy be canceled as there is no rent outstanding.

The tenant's witness/sister testified that:

- She has witnessed her sister pay the rent to the landlord on two or three occasions, but not every time.
- She did not see how much money was paid to the landlord; she only witnessed her sister handing over an envelope with cash in it.

Analysis

It's my finding that the tenant has not met the burden of proving that she has paid the outstanding rent claimed by the landlord.

The tenant claims the full amount of rent was paid and that her sister witnessed every payment; however her sister, who testified as a witness, stated that she only witnessed two or three rent payments to the landlord, and that she did not know how much was paid each time.

I find the landlord's testimony more credible, and find, on the balance of probabilities, that the full amount of rent claimed by the landlord is outstanding and I therefore will not be setting aside the Notice to End Tenancy.

Conclusion

The tenant's application is dismissed in full without leave to reapply, and at the request of the landlord I've issued an Order of Possession that is enforceable two days after service on the tenant.

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: May 16, 2013

Residential Tenancy Branch

