



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding TOP RANK INVESTMENT CORP
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNR, RP

Introduction

The tenant has applied for dispute resolution, seeking an order cancelling a 10 day Notice to End Tenancy (the "Notice") given for unpaid rent or utilities.

The tenant also claims for repairs to the premises. Given my decision, that has become a moot issue.

Issues to Be Decided

- Should the Notice be cancelled, and the tenancy continue?

Background and Evidence

This tenancy began in July, 2006. Rent is due on the 1st day of each month in the amount of \$890.00. The tenant received a 10-Day Notice to End Tenancy on April 18, 2013, because April's rent was not paid. The tenant filed a dispute of that notice immediately upon receiving it. The tenant admits not paying rent for April, and alleges the rent money was stolen. The tenant has paid May's rent, which the landlord accepted, on the condition that the Notice to End Tenancy remained in effect pending this hearing.

Analysis

Section 26(1) of the Residential Tenancy Act requires that a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with the Residential Tenancy Act or the tenancy agreement. This means the tenant was required to pay her rent on the first day of each month. The landlord was therefore entitled in law to serve the notice ending this tenancy, when the rent was not paid. Upon receipt of that notice, the tenant was required to have paid the rental arrears for April within the required 5 day period, in order to have the tenancy continue. The tenant failed to do so. The notice is therefore found effective to end this tenancy. That end of tenancy date is now extended to May 31, 2013, based upon the landlord having accepted rent for that month, on conditions I accept to a use and occupation basis. The tenant's claim to cancel the notice is dismissed.

I add that it remains an option for the landlord and tenant to avoid the effect of my decision, and reach an agreement between them to reinstate the tenancy. For example,

the landlord may choose to accept a prompt payment of April's rent and June's rent, and continue the tenancy, rather than have it end on May 31, 2013.

Conclusion

The tenant's claim is dismissed, and the tenancy ends May 31, 2013. .

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

