



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, OLC, FF

Introduction

This matter dealt with an application by the Tenant to cancel a Notice to End Tenancy, for the Landlord to comply with the Act, regulations or tenancy agreement and to recover the filing fee for this proceeding.

The Tenant said she served the Landlord with the Application and Notice of Hearing (the “hearing package”) by registered mail on June 7, 2013 and on June 15, 2013. Based on the evidence of the Tenant, I find that the Landlord was served with the Tenant’s hearing package as required by s. 89 of the Act and the hearing proceeded in the Landlord’s absence.

Issues(s) to be Decided

1. Is the Tenant entitled to an Order to cancel the Notice to End Tenancy?
2. Has the Landlord complied with the Act, regulations or tenancy agreement?

Background and Evidence

This tenancy started on October 1, 2011 as a month to month tenancy. Rent is \$900.00 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$450.00 in advance of the tenancy.

The Tenant said the Landlord issued a Notice to End Tenancy that is not valid. The Tenant continued to say that she had authorized the Landlord to use her security deposit as a partial payment of the June, 2013 rent as the Landlord’s rental property is being foreclosed on. The Tenant said there is no unpaid rent and she has been advised by the Landlord’s bank to make all future rent payments to the bank.

The Tenant also requested to recover the \$50.00 filing fee for this proceeding.

Analysis

Section 52 of the Act says that a Notice to End a Tenancy must in the approved form. The Landlord's Notice to End Tenancy dated June 2, 2013 is not on the approved form and the Notice does not give the Tenant all the information required by the Act when a Notice to End a Tenancy is given to a tenant for unpaid rent.

Consequently as the Notice to End Tenancy dated June 2, 2013 is not a valid Notice to End a Tenancy I order the tenancy to continue as agreed to in the tenancy agreement whether the agreement was written or verbal.

As the Tenant has been successful in this matter I order the Tenant to recover the \$50.00 filing fee for this proceeding by deducting it from the July, 2013 rent. The July, 2013 rent is adjusted to \$850.00.

Conclusion

I order the tenancy to continue as set out in the tenancy agreement whether written or verbal due to the Notice to End Tenancy dated June 2, 2013 being invalid.

I order the Tenant to adjust the July, 2013 rent payment to \$850.00 so that the Tenant can recover the filing fee of \$50.00 for this proceeding from the Landlord.

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: July 03, 2013

Residential Tenancy Branch