



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 recovery of the filing fee.

Both parties attended the hearing by conference call and gave testimony. As both parties have attended and have confirmed receipt of the Tenant's notice of hearing package and the submitted documentary evidence of the other party, I am satisfied that both parties have been properly served.

Issue(s) to be Decided

Is the Tenant entitled to an order cancelling a notice to end tenancy?

Background and Evidence

Both parties agreed that the Tenant was served with a 10 day notice to end tenancy issued for unpaid rent dated June 2, 2013. The notice states that \$460.00 in rent was due and unpaid on June 1, 2013. The notice also shows an effective date of June 15, 2013.

Both parties have agreed that a settlement was agreed upon during a June 10, 2013 Residential Tenancy Branch Hearing where both parties agreed to mutually end the tenancy on July 31, 2013. That there would be no rent paid for July. That the Tenant would pay rent immediately of \$410.00. The Tenant would return the original "compensation cheque" to the Landlord.

The Tenant states that the Landlord refused to accept a cheque that was issued by the Landlord for compensation as a result of a 2 month notice end tenancy issued for cause prior to June 1, 2013 for the payment of June rent. The Tenant states that the Landlord insisted that the June rent be paid in cash, but that the Tenant wished to just return the "compensation cheque". The Landlord states that he was given advice by the Residential Tenancy Branch staff to not accept the cheque as payment for June rent as it could be interpreted as re-instating the Tenancy. The Tenant noted that the cheque that was given was not signed by the Landlord and refers to the copy provided in evidence. The Landlord disputes this stating that the original cheque had a signature, but is unable to provide any supporting evidence. The Tenant's details of dispute state that, "Muhammad tried to take my (cash) money, and not compensate me for one months rent."

The Tenant states that he only seeks recovery of the \$50.00 filing fee for this hearing as the issue of possession has been resolved in a settlement agreement.

Analysis

I prefer the evidence of the Tenant over that of the Landlord. The Tenant has expressed concern over the compensation that was issued as the Landlord had not signed the "compensation cheque" as shown by the submitted copy from the Tenant. Although the Landlord states that the cheque was signed he was unable to provide sufficient evidence to satisfy me during the hearing that would contradict the copy of the cheque provided by the Tenant. I find that the Tenant did attempt to pay the rent and that the Landlord refused to accept payment. The Tenant's Application to cancel the notice to end tenancy issued for unpaid rent is granted. As possession has been determined through a settlement between the two parties, I decline to make any order regarding possession.

The Tenant is entitled to recovery of the \$50.00 filing fee. The Tenant is granted a monetary order for \$50.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The Tenant is granted a monetary order for \$50.00.

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 09, 2013

Residential Tenancy Branch

