



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. The Tenant did not submit any documentary evidence. The Landlord has submitted documentary evidence and has provided a proof of service document confirming service. As such, I am satisfied that both parties have been properly served with the notice of hearing documents and the submitted documentary evidence.

Issue(s) to be Decided

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

Background and Evidence

This Tenancy began on January 1, 2012 on a fixed term tenancy ending on June 30, 2012 and then thereafter on a month to month basis as shown by the submitted copy of the signed tenancy agreement. The monthly rent is \$1,050.00 payable on the 1st of each month. A security deposit of \$540.00 and a pet damage deposit of \$540.00 were paid on December 21, 2011.

During the hearing, both parties confirmed that there was no unpaid rent, but that the Landlord served a 10 day notice to end tenancy issued for unpaid rent and that the Tenant had applied for an order cancelling a notice to end tenancy issued for unpaid rent. Both parties confirmed that the dispute is over a returned security deposit which was returned by the Landlord when the Tenant promised to vacate the rental unit, but that did not and has failed to re-pay the security deposit to the Landlord after written notice to do so.

Analysis

I find that there is no unpaid rent and that the Landlord failed to serve the proper notice upon the Tenant based upon the direct testimony of both parties. The Tenant's application is granted. The notice dated October 25, 2013 is set aside and the tenancy shall continue. The Tenant is entitled to recovery of the \$50.00 filing fee. I grant the Tenant a monetary order for \$50.00 under section 67 of the Act. 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's Application to cancel the notice to end tenancy dated October 25, 2013 is granted. 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: December 13, 2013

Residential Tenancy Branch

