



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Mainstreet Equity Corp.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNR

Introduction

This hearing was convened by way of conference call concerning an application made by the tenant for an order cancelling a notice to end tenancy for unpaid rent or utilities.

The tenant and an agent for the landlord company attended the hearing and each gave affirmed testimony. The tenant also provided evidentiary material in advance of the hearing. The parties were given the opportunity to cross examine each other on the evidence and testimony provided, all of which has been reviewed and is considered in this Decision.

No issues with respect to service or delivery of documents or evidence were raised.

Issue(s) to be Decided

Should the notice to end tenancy for unpaid rent or utilities be cancelled?

Background and Evidence

The landlord's agent testified that this fixed term tenancy began on September 1, 2012, expired after a year, and then a new fixed term tenancy was agreed upon to expire on August 1, 2014. Rent in the amount of \$875.00 per month is payable in advance on the 1st day of each month. At the outset of the first tenancy the landlord collected a security deposit from the tenant in the amount of \$437.50 as well as a pet damage deposit in the amount of \$200.00 and a key deposit in the amount of \$50.00. All deposits are still held in trust by the landlord.

The landlord's agent further testified that the tenant failed to pay rent in full for the month of January, 2014, leaving a balance of \$175.00. The tenant paid the \$175.00 on February 1, 2014 but did not pay any rent for February.

The landlord's agent prepared a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, and a copy has been provided by the tenant. The notice is dated February 18, 2014 and contains an expected date of vacancy of February 28, 2014. The notice states that the tenant failed to pay rent in the amount of \$825.00 that was due on February 1, 2014, and the landlord's agent testified that the amount is incorrect and should have read \$875.00. The landlord's agent cannot recall if both pages of the 2-page form were served, and the copy provided only has one page.

The parties agreed to meet on February 18, 2014 and the landlord's agent expected to receive money for the outstanding rent but didn't. The parties had a conversation and the tenant was handed a notice to end tenancy in the names of the tenant and another tenant. The tenant asked that it be issued to the tenant only, and the landlord's agent complied by issuing another. The landlord's agent believed that if a copy of a notice to end tenancy was provided to the Ministry, the tenant may have been able to get a shelter allowance. The tenant wasn't successful, but told the landlord's agent that he got his EI benefits reinstated. However, rent still hasn't been paid, and no payments have been made since the issuance of the notice to end tenancy.

The tenant testified that the landlord's agent started working with the tenant about rental arrears starting in November, 2013; the tenant was a student relying on student loans.

The tenant gave the landlord's agent a post dated cheque on February 14, 2014 by placing it in the mailbox in the amount of \$2,675.00 to cover rent for February, March and April, 2014 and late fees for February and March of \$25.00 each. The landlord's agent returned the cheque stating that the company would not accept a post-dated cheque for such a large amount to cover rental arrears and future rent.

The tenant stated that the notice to end tenancy was placed on the tenant's door. Only one page was served, and there is not a second page on the reverse side.

Analysis

The *Residential Tenancy Act* requires a landlord to use the approved form of a notice to end a tenancy, which includes serving both pages. The second page contains crucial information for the tenant and failing to provide both pages is not in compliance with the *Act*. The tenant testified that only one page has been received and the landlord's agent does not know whether or not both pages were served.

I also note that the amount stated in the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities is incorrect and would be deceiving to a tenant.

Therefore, I find that the notice to end tenancy has not complied with the *Act*, and must be cancelled.

The landlord is at liberty to issue another notice to end tenancy if rent remains unpaid.

Conclusion

For the reasons set out above, the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities issued by the landlord dated February 18, 2014 is hereby cancelled and the tenancy continues.

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: March 20, 2014

Residential Tenancy Branch

