



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding HARRON INVESTMENTS INC.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: CNR OPR

Introduction:

This was an application by the tenant to cancel a Notice to End the Tenancy for non-payment of rent dated March 3, 2014 as they say it was not a proper Notice. The landlord attended the hearing and provided some evidence; the hearing concluded at 10:43a.m. and the landlord left the conference. Before the conference was closed, the tenant joined the conference at 10:44a.m. His social worker said that she just happened to drop by and the tenant had misunderstood the dial-in directions. The tenant was given opportunity to be heard but the decision remained the same.

SERVICE:

The tenant confirmed he had received the 10 day Notice to End Tenancy and the landlord confirmed he had received the Application/Notice of Hearing from the tenant.

Issues: Is the tenant entitled to any relief?

Background and Evidence:

Both parties at different times attended the hearing and were given opportunity to be heard, to provide evidence and to make submissions. The tenant had submitted on his Application that the Notice to End Tenancy should be set aside for it was not the proper Notice. The landlord explained that the tenant had damaged a door in October 2013 and agreed to pay for the repair but had not made his last payment of \$201.97 so they served a 10 day Notice for Non Payment of rent on him.

Although the tenant had not attended the conference yet, I reviewed section 46 and 47 of the Act with the landlord and pointed out that section 46 permitted unpaid rent and utilities to be the subject of a 10 day Notice to End Tenancy, but there was no provision for unpaid repairs to be part of this kind of Notice. I pointed out to him that a one month Notice to End Tenancy under section 47 would be the appropriate Notice. I advised him this Notice would be set aside and the tenancy reinstated at this point. He left the conference.

One minute later the tenant attended the conference and raised his objection to the kind of Notice. I advised him of the result as told to the landlord. He said he just required more time to pay the third payment and he had been a tenant there for 6 years.

Analysis:

The Notice to End a Residential Tenancy is based on non-payment of rent under section 46 of the Act. I find the landlord had issued it for an unpaid repair amount. I find damage to property and unpaid repairs fall under section 47 of the Act and require a one month Notice to End Tenancy to be served on the tenant. According to section 52 of the Act, a Notice to End Tenancy when given by a landlord must be in the correct form and have the correct content. Therefore, this Notice to End Tenancy dated March 3, 2014 is set aside and cancelled.

Conclusion:

I HEREBY ORDER that the Notice to End Tenancy dated March 3, 2014 is set aside and cancelled. The tenancy is reinstated. No filing fee was involved.

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: April 08, 2014

Residential Tenancy Branch

