



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

OPR MNR CNR OLC RR FF

Introduction

This hearing was convened pursuant to applications by the tenant and the landlord. The tenant applied to cancel a notice to end tenancy for unpaid rent, as well as for an order that the landlord comply with the Act and a reduction in rent. The landlord applied for an order of possession pursuant to the notice to end tenancy and a monetary order. The landlord, the tenant and the tenant's son participated in the teleconference hearing.

I determined that the issue of the notice to end tenancy took precedence, and only heard evidence on that issue. I will address the remainder of the applications in the conclusion of my decision.

At the outset of the hearing, each party confirmed that they had received the other party's application and evidence. Both parties were given full opportunity to give testimony and present their evidence. I have reviewed all testimony and other evidence. However, in this decision I only describe the evidence relevant to the issues and findings in this matter.

Issue(s) to be Decided

Is the notice to end tenancy for unpaid rent valid?

Background and Evidence

The tenancy began on March 1, 2014, with monthly rent of \$1600 due in advance on the first day of each month. The tenant signed the tenancy agreement, and her 17-year-old son is named on the tenancy agreement "for information only due to age," as noted by the landlord.

The landlord stated that they had not received any rent for March 2014, and on March 17, 2014 they posted a notice to end tenancy for unpaid rent on the rental unit door. The landlord confirmed that the tenant paid \$600 on March 24, 2014, and \$1000 on March 25, 2014.

The tenant stated that she was out of town until March 20 or 21, 2014. The tenant's son stated that he was also out of town and arrived home on March 19 or 20, 2014, as far as he could recall. The tenant stated that her son told her there were some papers from the landlord on the

door, but the tenant herself did not know that there was a notice to end tenancy for unpaid rent until she returned home. The tenant submitted that she paid the rent in full within five days of having received the notice to end tenancy.

Analysis

I find that the notice to end tenancy is not valid. When a document is posted, it is deemed to have been received three days after posting. In this case, the tenant was deemed to have been served with the notice to end tenancy on March 20, 2014. There was no evidence to show that the tenant had actually received the notice prior to March 20, 2014. If a tenant pays the full outstanding rent within five days of having received or deemed to have received the notice, then the notice is of no force or effect. In this case the tenant paid the full rent owing by March 25, 2014. Therefore the notice to end tenancy dated March 17, 2014 is cancelled.

The landlord's application for an order of possession was not successful, and I therefore decline to grant the landlord recovery of the filing fee for the cost of their application.

The tenant's application to cancel the notice to end tenancy was successful, and I therefore grant the tenant recovery of the \$50 filing fee.

Conclusion

The notice to end tenancy dated, March 17, 2014 is cancelled, and the tenancy continues until such time as it ends in accordance with the Act.

The tenant may make a one-time deduction of \$50 from her rent, which satisfies recovery of the tenant's filing fee for the cost of this application.

The landlord's claim for recovery of the filing fee is dismissed. The remainder of both applications is dismissed with leave to reapply.

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: May 22, 2014

Residential Tenancy Branch

