



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

CNR FF

Introduction

This hearing dealt with an application by the tenant to cancel a Notice to End Tenancy for Unpaid Rent, dated August 08, 2014, and to recover the filing fee.

I accept the tenant's evidence that despite the landlord having been served with the application for dispute resolution and notice of hearing by registered mail in accordance with Section 89 of the Residential Tenancy Act (the Act) the landlord did not participate in the conference call hearing. The tenant testified they sent the registered mail to the address provided by the landlord on the Notice to End Tenancy for Unpaid Rent. The tenant provided the tracking number for registered mail as well as the number for a subsequent package of evidence both to the same address. The tenant was given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Should the Notice to End dated August 08, 2014 be set aside?

Background and Evidence

The landlord did not appear in the hearing to defend their reasons respecting the Notice to End, nor to request an Order of Possession.

Analysis

The burden of proof rests with the landlord to prove they served the tenant with a *valid* Notice to End the tenancy. I find that although the landlord's Notice to End was issued, the landlord did not attend the hearing to support their reasons for issuing the Notice.

As a result, I **Order** the Notice to End dated August 08, 2014 is **cancelled**, or set aside. If necessary, the landlord is at liberty to issue another *new* Notice to End for *valid* reasons. The tenant may recover the filing fee.

Conclusion

The tenant's application is granted. The landlord's Notice to End is **set aside and is of no effect**. The tenancy continues.

The tenant may deduct \$50.00 from a future rent in satisfaction of the filing fee.

This Decision is final and binding on both parties.

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: October 14, 2014

Residential Tenancy Branch

