



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, and to make submissions. The tenant was represented by an agent at the hearing. He did not attend the hearing himself. The landlord made no application at this hearing. However, he conceded that the tenant's application to cancel the 10 Day Notice should be granted.

The landlord's documentary evidence shows that the tenant was served with the 10 Day Notice on November 4, 2014 by posting it on the tenant's door. The tenant's agent confirmed receipt of the notice. Based on the evidence and pursuant to section 88 and 90 of the Act, the tenant was served November 7, 2014.

The tenant's advocate testified that, on receipt of the 10 Day Notice, she personally served the landlord with the dispute resolution package by delivering it to the landlord's offices and handing it to a representative of the landlord on November 10, 2014. The landlord confirmed receipt of the notice. Based on the evidence and pursuant to section 89 of the Act, the landlord was duly served with a copy of the tenant's dispute resolution package on November 10, 2014.

I note that while the tenant did not attend this hearing, the tenant's agent testified she was able to act on the tenant's behalf.

I am also satisfied, based on the evidence from both parties regarding the length and nature of this tenancy that this is a matter that falls under the *Residential Tenancy Act*.

Issues to be Decided

Should the landlord's 10 Day Notice be cancelled?

Background and Evidence

This tenancy began February 1, 2014 as a month to month tenancy with a rental amount of \$450.00 payable on the first of each month. The tenant continues to reside in the rental unit. As of February 1, 2014, the landlord holds a security deposit in the amount of \$203.00.

Payment of rent was the matter of dispute in this case. The landlord attached a letter to the tenant with the 10 Day Notice. This letter stated, "We have posted this 10 Day Notice because one or more of the following reasons apply." The letter also stated, "The current management of the West "Community Builders" does not have any financial record on file showing payment for either October, November or both as of November 4, 2014" and, "If you feel there has been an error, please bring 'proof of payment' ... to the front desk..." The letter, with notice to end tenancy, was provided with a variety of notices within the residential property.

Analysis

Pursuant to section 63 of the *Act*, the Arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order. During and prior to the hearing, the parties discussed the issues between them, engaged in a conversation, turned their minds to compromise and achieved a resolution of their dispute.

The landlord and tenant agreed to the following final and binding settlement of all issues currently under dispute at this time:

1. The landlord agreed the 10 Day Notice to End Tenancy should be cancelled and is of no force and effect.
2. Both parties agreed that the tenancy will continue on a month to month basis.
3. The landlord agreed that the tenant has no financial arrears with this or any previous landlord with respect to any tenancy in any rental unit at the residential premises with the address as indicated on this decision.

Both parties agreed that the settlement agreement outlined above constituted a final and binding resolution of all issues arising out of this application.

Conclusion

The tenant's application to cancel the 10 Day Notice is granted.

The 10 Day Notice to End Tenancy is of no force and effect.

The conditions of settlement between the parties (landlord and tenant)

- that the tenancy will continue
- the tenant does not owe any arrears to the landlord

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 08, 2014

Residential Tenancy Branch

