



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution (the “Application”) made by the Tenant to cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the “Notice”).

The Tenant appeared for the hearing and provided affirmed testimony during the hearing and documentary evidence prior to the hearing.

The Tenant testified that he served the Notice of Hearing documents and a copy of the Application to the Landlord by registered mail. The Tenant provided the Canada Post tracking number during the hearing, which was noted in the file, and the Canada Post website indicates that it was received and signed for on October 29, 2014. Based on the undisputed evidence of the Tenant, I find that the Landlord was served with notice of this hearing in accordance with Section 89(1) (c) of the *Residential Tenancy Act* (the “Act”). However, there was no appearance by the Landlord for this hearing and no submission of written evidence prior to the hearing.

As a result, I have considered the undisputed evidence of the Tenant and make my decision as follows.

Issue(s) to be Decided

- Has the Tenant established that the Notice ought to be cancelled?

Background and Evidence

The Tenant testified that this tenancy began on September 1, 2014 for a fixed term of one year. Rent under the written tenancy agreement was established in the amount of \$625.00 payable on the first day of each month.

The Tenant testified that the Notice was put under his door on October 17, 2014. The Notice provided in written evidence shows that the Tenant failed to pay rent of \$650.00 due on October 1, 2014 and has an effective date of vacancy of October 28, 2014.

The Tenant explained that he did not pay rent on October 1, 2014 because he was still negotiating an end to the tenancy with the Landlord. However, the discussions were unsuccessful after which the Landlord served him with the Notice on October 17, 2014.

The Tenant testified that on October 21, 2014 he paid the Landlord rent in the amount of \$625.00 in accordance with the Notice and provided a copy of the cheque for this amount in written evidence. The Tenant testified that the Landlord accepted the payment. The Tenant testified that he has also paid rent for November and December, 2014 since the issuing of the Notice.

Analysis

Section 46(4) of the Act provides that if a Tenant is served with a Notice and pays the overdue rent within five days of receiving the Notice, the Notice has no effect.

I accept the undisputed evidence that the Tenant was served with the Notice on October 17, 2014 and paid the full amount of rent in the amount of \$650.00 to the Landlord on October 21, 2014, as evidence by the Tenant's cheque. I find that as the Tenant paid rent within the five days required by the Act and the Notice, the Notice has no effect and is hereby cancelled.

Conclusion

For the above reason, I cancel the Notice issued by the Landlord dated October 17, 2014 and the tenancy will resume until it is ended in accordance with the Act.

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 02, 2014

Residential Tenancy Branch

