



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Gateway Property Management
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, MNDC, FF

Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order of Possession - Section 55;
2. A Monetary Order for unpaid rent - Section 67;
3. An Order to retain the security deposit - Section 38; and
4. An Order to recover the filing fee for this application - Section 72.

I accept the Landlord’s evidence that the Tenant was served with the application for dispute resolution and notice of hearing in person on February 15, 2015 in accordance with Section 89 of the Act. The Tenant did not participate in the conference call hearing. The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the notice to end tenancy effective?

Background and Evidence

The tenancy started on September 1, 2010. On February 2, 2015 the Landlord served the Tenant with a 10 day notice for unpaid rent (the “Notice”). The Landlord states that the Tenant paid the amount on the Notice very shortly after the Notice was given to the Tenant. The Landlord also states that he cannot recall when the amount was paid. The Landlord states that the Tenant paid the amount just after the application was made.

The Landlord states that they are interested in continuing the tenancy but want the Tenant on track with rent payments.

Analysis

Section 46 of the Act provides that where a tenant pays the overdue rent within 5 days after receiving a notice for unpaid rent the notice has no effect. As the Landlord was unable to provide clear and non-contradictory evidence as to when the Tenant paid the overdue rent set out on the Notice and considering that the Landlord's evidence indicates that the Tenant paid the rent within a few days of receiving the Notice, I find that the Landlord has not substantiated that the Notice is still effective or valid and I dismiss the Landlord's application.

Conclusion

The application is dismissed.

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: March 09, 2015

Residential Tenancy Branch

