



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 seeking to have a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities set aside. Both parties participated in the conference call hearing. Both parties confirmed that they received each other's documentary evidence. I find that both parties have been duly served of each other's evidence in accordance with section 89 of the Act. Both parties gave affirmed evidence.

Issues to be Decided

Is the tenant entitled to have the notice set aside?

Background and Evidence

The landlord gave the following testimony:

The tenancy began on or about February 2011. Rent in the amount of \$800.00 is payable in advance on the first day of each month. At the outset of the tenancy the landlord collected from the tenant a security deposit in the amount of \$400.00. The landlord stated that on February 11, 2015 the tenant was served with a notice to end tenancy for \$527.43 of unpaid utilities. The landlord stated that the company had some software upgrades which caused some confusion in the tenant ledger and what in fact was owed. The landlord stated that the tenant is not behind in utility costs but failed to pay \$800.00 rent that was due on September 1, 2013. The landlord requested that the notice be corrected during the hearing and that I consider it on that basis.

The tenant gave the following testimony:

The tenant stated “I have no idea what he’s talking about”. The tenant stated that he has paid all his rent and that “the notice doesn’t make sense and neither does this hearing”.

Analysis

When a landlord issues a notice pursuant to section 46 of the Act they bear a responsibility to have accurate records reflecting the amount they are seeking. Although the landlord submitted a tenant ledger, it is of no help. The ledger is confusing and unclear. In addition, the notice itself is not an accurate reflection of the basis the landlord was relying on to obtain the order of possession. Section 52 addresses this issue as follows:

52 In order to be effective, a notice to end a tenancy must be in writing and must

- (a) be signed and dated by the landlord or tenant giving the notice,
- (b) give the address of the rental unit,
- (c) state the effective date of the notice,
- (d) except for a notice under section 45 (1) or (2) [*tenant's notice*], **state the grounds for ending the tenancy,** and
- (e) when given by a landlord, be in the approved form.

In the landlords own testimony he stated the amount sought, the date and type of shortfall was completely different from that on the notice. Based on the above I hereby set aside the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated February 11, 2015 with an effective date of February 21, 2015. The notice is of no effect or force.

The tenant is entitled to the recovery of the \$50.00 filing fee.

Conclusion

The notice is set aside. The tenant is entitled to a one time rent reduction of \$50.00 to recover the cost of the filing fee. The tenant is entitled to that one time reduction for the rent payable April 1, 2015.

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 17, 2015

Residential Tenancy Branch

