



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes RP, ERP, MNSD, DRI, CNR, RR, MT, MNDC

Introduction

This hearing was convened as a result of the tenant's application for dispute resolution under the Residential Tenancy Act ("Act"). The tenant applied for an order cancelling a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice"), an order requiring the landlord to make repairs and emergency repairs to the rental unit, for an order allowing a reduction in rent, to dispute an additional rent increase, a monetary order for a return of their security deposit, for an order granting more time to make an application to cancel a notice to end tenancy, and a monetary order for money owed or compensation for damage or loss.

At the beginning of the hearing until almost the conclusion, the only attendant was the tenant.

The tenant testified that he attempted to hand deliver the landlord his application and notice of hearing to the landlord on or about March 31, 2015, when the landlord attended the rental unit, but that the landlord refused to accept the documents.

Based upon the submissions of the tenant, I accept that he constructively served the landlord with the application for dispute resolution and notice of hearing by attempted hand delivery as required by section 89(1) of the Act, when the landlord refused to accept the documents. The hearing proceeded in the landlord's absence as refusal of the documents do not amount to non-service.

Additionally, the persons listed as attending for the landlord appeared towards the conclusion of the hearing and did not present that they were agents for the landlord, only attending as the tenant had informed them of the hearing. "CB" stated she was calling on behalf of the landlord, but did not have sufficient information about the issues mentioned in the application. CB stated she was a manager of the premises. "DN" was presented as a cleaner and maintenance worker.

The parties were provided the opportunity to present their evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all oral and documentary evidence before me that met the requirements of the Dispute Resolution Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Preliminary matters-

I have determined that the portion of the tenant's application dealing with a request for an order requiring the landlord to make repairs and emergency repairs to the rental unit, for an order allowing a reduction in rent, to dispute an additional rent increase, a monetary order for a return of their security deposit, and a monetary order for money owed or compensation for damage or loss are unrelated to the primary issue of disputing the Notice. As a result, pursuant to section 2.3 of the Rules, I have severed the tenant's application and dismissed that portion of the tenant's request for those orders, **with leave to reapply**.

As to the tenant's request for an order granting more time to make an application to cancel a notice to end tenancy, the Notice submitted by the tenant into evidence was dated March 16, 2015, and as the tenant filed his application on March 20, 2015, I determined that he had filed his application within the required time frames. I therefore did not consider his request for an extension of time.

The hearing proceeded only upon the tenant's application to cancel the Notice.

Issue(s) to be Decided

Is the tenant entitled to a cancellation of the Notice?

Background and Evidence

The tenant submitted that the tenancy began on January 1, 2014, and monthly rent is \$550.00.

The Notice was listed unpaid rent of \$250.00 "+ Prev. Balance" owed as of March 1, 2015, and listed an effective move-out date of March 27, 2015. The Notice informed the tenants that they had within 5 days of service to pay the unpaid rent listed or file an application with the Residential Tenancy Branch ("RTB") in dispute of the Notice. It is noted that the Notice did not list a landlord's name.

Although she had no accounting or payment records, CB stated that she believed the tenant owed a "fair" amount of rent.

The tenant submitted there was a lot of confusion as to how much rent was owed each month, as the landlord kept changing the amount to be paid and collecting cheques issued by a government ministry on his behalf, including the one for May 2015.

Analysis

Under section 46 of the Act, a landlord may serve a tenant a 10 Day Notice to End Tenancy for Unpaid Rent if rent is unpaid on any day after the day it is due. When a landlord issues a notice to end a tenancy and the tenant files an application to dispute the notice within the required time frame, the landlord must prove and demonstrate that there is sufficient reason under the Act to end the tenancy.

As the persons attending on behalf of the landlord did not present themselves as agents for the landlord and had no information to support the Notice, I did not consider that they had any relevant evidence to present for the landlord.

As the landlord did not appear in the hearing to support their Notice, after being properly served with the tenant's application and notice of this hearing and as the Notice was invalid as it did not contain the landlord's name as required by 52 of the Act, I order that the Notice dated March 16, 2015, be cancelled, with the effect that the tenancy continues until it may otherwise legally end under the Act.

Conclusion

The portion of the tenant's application seeking cancellation of the Notice is granted as I have cancelled the landlord's Notice, dated March 16, 2015.

The portion of the tenant's application seeking a request for an order requiring the landlord to make repairs and emergency repairs to the rental unit, for an order allowing a reduction in rent, to dispute an additional rent increase, a monetary order for a return of their security deposit, and a monetary order for money owed or compensation for damage or loss is severed, and the tenant is granted leave to reapply for those matters.

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: May 4, 2015

Residential Tenancy Branch

