



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

For the tenants: CNR
For the landlord: OPR MNR

Introduction

This hearing was convened as a result of the cross applications of the parties for dispute resolution under the *Residential Tenancy Act* (the “Act”).

Tenant L.S. applied to cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the “10 Day Notice”). The landlord applied against tenant L.S. and T.N. for an order of possession for unpaid rent or utilities, and for a monetary order for unpaid rent or utilities.

Tenant L.S. (the “tenant”) attended the teleconference hearing. The landlord did not attend the hearing. As the landlord did not attend the hearing, the landlord’s application was **dismissed without leave to reapply** after the 10 minute waiting period had elapsed. The hearing continued with the tenant’s application to cancel the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated June 2, 2015.

The tenant testified that she served the landlord with the Notice of a Dispute Resolution Hearing (the “Notice of Hearing”) and Tenant’s Application for Dispute Resolution (the “Application”) and documentary evidence by registered mail on June 5, 2015. A tracking number was submitted in evidence. According to the Canada Post registered mail tracking website, the registered mail package was accepted and signed for by the landlord on June 14, 2015. As a result, I find the landlord was served as of the date the landlord signed for the package on June 14, 2015.

Issue to be Decided

- Should the 10 Day Notice dated June 2, 2015 be cancelled?

Background and Evidence

The tenant testified that a fixed term tenancy began on June 1, 2014 and reverted to a month to month tenancy after June 1, 2015. Monthly rent of \$1,200 is due on the first day of each month. A security deposit of \$600 was paid by the tenants at the start of the tenancy.

The 10 Day Notice dated June 2, 2015 was submitted in evidence. The tenants filed to dispute that notice on June 5, 2015. The effective vacancy date on the 10 Day Notice is listed as June 17, 2015.

The tenant continues to occupy the rental unit.

Analysis

Based on the documentary evidence and the oral testimony provided during the hearing, and on the balance of probabilities, I find the following.

As the landlord did not attend the hearing to present the merits of his application, **I dismiss** the landlord's application in full without leave to reapply.

Furthermore, as the landlord failed to attend the hearing to prove that the 10 Day Notice was valid, **I cancel** the 10 Day Notice dated June 2, 2015. The tenant's application had merit as a result.

I ORDER the tenancy to continue until ended in accordance with the *Act*.

Conclusion

The landlord's application has been dismissed in full without liberty to reapply.

The tenant's application is successful.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: July 17, 2015

Residential Tenancy Branch

