



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding LANDRISE MANAGEMENT LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNR, FF

Introduction

This hearing dealt with the tenants' application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46; and
- authorization to recover his filing fee for this application from the landlord pursuant to section 72.

The landlord did not attend this hearing, although I waited until 10:14 a.m. in order to enable the landlord to connect with this teleconference hearing scheduled for 10:00 a.m. The male tenant (the tenant) attended the hearing on his behalf and on behalf of his wife, the other tenant. The tenant was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The tenant gave undisputed sworn testimony that he served the landlord with a copy of the tenants' dispute resolution hearing package by registered mail on August 22, 2015. He provided the Canada Post Tracking Number to confirm this registered mailing. He testified that this package as well as his subsequent written evidence was returned to him by Canada Post as refused. He testified that the address he used for the mailing of these documents was the same mailing address as has been provided to him by the landlord throughout this tenancy and where the landlord carries on business as the landlord. In accordance with sections 88, 89 and 90 of the *Act*, I find that the landlord was deemed served with the dispute resolution hearing package and written evidence five days after their registered mailing.

Issues(s) to be Decided

Should the landlord's 10 Day Notice be cancelled? Are the tenants entitled to recover the filing fee for this application from the landlord?

Background and Evidence

The tenant testified that this tenancy began in July or August 2012, on the basis of an initial six-month fixed term. The tenancy reverted to a periodic tenancy when the initial term expired. Monthly rent is set at \$1,010.00, payable in advance on the first.

The tenant gave undisputed sworn testimony that he discovered the 10 Day Notice posted on his door on August 16, 2015. He entered into written evidence a copy of the 10 Day Notice, which identified \$1,010.00 as owing for August 2015 rent. He provided written evidence, photographic evidence and sworn testimony that he and his wife paid the amount identified as owing in full by way of a cheque deposited in the landlord's mailbox on August 18, 2015, three days after receiving the 10 Day Notice. He asked that the 10 Day Notice be cancelled as the amount identified as owing was paid in accordance with the instructions on the reverse of the 10 Day Notice.

Analysis

Based on the undisputed sworn testimony and written evidence of the tenant, I find that the 10 Day Notice is of no force or effect. It was cancelled once the tenants complied with the landlord's request for payment of the amount identified as owing in full.

Under these circumstances, there was no need for the tenants to have applied to cancel the 10 Day Notice as their payment on August 18, satisfied the landlord's request for payment. As such, I make no order regarding the tenants' application to recover their filing fee from the landlord.

Conclusion

The 10 Day Notice is cancelled and of no force or effect. I dismiss the tenants' application to recover their filing fee without leave to reapply.

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: September 30, 2015

Residential Tenancy Branch

