



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR MNDC LAT RR FF

This hearing dealt with the tenant's Application for Dispute Resolution under the *Residential Tenancy Act* (the "Act"), seeking to cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "10 Day Notice"), for a monetary order in the amount of \$753.91 for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement, for authorization for the tenant to change the locks to the rental unit, for authorization for the tenant to reduce rent for repairs, services or facilities agreed upon but not provided, and to recover the cost of the filing fee.

The tenant and landlord S.B. (the "landlord") who was representing both landlords attended the teleconference hearing. The parties provided affirmed testimony, were provided the opportunity to present their evidence orally and in documentary form prior to the hearing, and make submissions to me.

Neither party submitted documentary evidence to the Residential Tenancy Branch.

Preliminary and Procedural Matter

Rule 2.3 of the Residential Tenancy Branch Rules of Procedure authorizes me to dismiss unrelated disputes contained in a single application. In this circumstance the tenant indicated several matters of dispute on the Application for Dispute Resolution (the "Application"), the most urgent of which is the tenant's application to set aside the 10 Day Notice. I find that not all the claims on this Application for Dispute Resolution are sufficiently related to be determined during this proceeding. I will, therefore, only consider the tenant's request to set aside the 10 Day Notice and the tenant's application to recover the cost of the filing fee at this proceeding. The balance of the tenant's application is dismissed, with leave to re-apply

Issues to be Decided

- Should the 10 Day Notice be cancelled?

- Is the tenant entitled to the recovery of the cost of the filing fee?

Background and Evidence

The parties agreed that a month to month tenancy began on March 10, 2015 and that monthly rent is \$650 due on the 10th day of each month. The parties also agreed that the tenant paid a security deposit of \$300 at the start of the tenancy, which the landlord continues to hold.

The tenant stated that a 10 Day Notice dated August 11, 2015 was served on her on August 11, 2015 and that she disputed the 10 Day Notice on August 7, 2015, which is actually before the 10 Day Notice was issued. The parties agreed that the amount owing on the 10 Day Notice was \$950 comprised of \$650 owing for unpaid August 2015 rent, plus \$300 owing for unpaid July 2015 rent. The parties also agreed that on August 12, 2015, the tenant paid the full amount of \$950 to the landlord.

Analysis

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

10 Day Notice issued by landlord – Section 46(4) of the *Act* states that if the overdue amount of rent is paid within 5 days after receiving the 10 Day Notice, the 10 Day Notice has no effect. Given the above, the 10 Day Notice dated August 11, 2015 is of no force or effect as the parties agreed that the \$950 amount of unpaid rent was paid in full by August 12, 2015, which is within 5 days of the 10 Notice being served on August 11, 2015.

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

I do not grant the tenant the recovery of her filing fee as the tenant did not need to dispute the 10 Day Notice as she had fully paid the rent owing resulting in the 10 Day Notice being of no force or effect. In addition, the tenant disputed the 10 Day Notice before the 10 Day Notice was actually issued, which was premature.

Conclusion

The 10 Day Notice dated August 11, 2015 is of no force or effect.

The tenancy will continue until ended in accordance with the *Act*.

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: October 16, 2015

Residential Tenancy Branch

