



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Capilano Property Management Services
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNR

Introduction

This hearing was convened as a result of the tenant's application for dispute resolution under the Residential Tenancy Act (the "Act"). The tenant applied for an order cancelling the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities ("Notice") issued by the landlord.

The tenant and his legal advocate attended the telephone conference call hearing; the landlord did not attend.

The legal advocate submitted that she served the landlord with the tenant's Application for Dispute Resolution and Notice of Hearing by registered mail on December 3, 2015. The legal advocate tenant supplied the receipt showing the tracking number and stated that her online search of the Canada Post tracking history showed that the registered mail was collected by the landlord.

Based upon the submissions of the tenant, I accept the landlord was served notice of this hearing and the tenant's application in a manner complying with section 89(1) of the Residential Tenancy Act and the hearing proceeded in the landlord's absence.

The tenant and his legal advocate 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.

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 in April 2015, and monthly rent is \$835.00.

Into evidence, the tenant submitted the Notice issued to him. The Notice was dated December 2, 2015, listed unpaid rent of \$535.00 owed as of December 1, 2015, and listed an effective move-out date of December 12, 2015. The Notice informed the tenant that he had 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.

The tenant's application filed here in dispute of the Notice was made on December 3, 2015.

The tenant's additional relevant evidence included copies of rent receipts.

Analysis

Under section 46 of the Act, a landlord may serve a tenant a 10 Day Notice to End Tenancy for Unpaid Rent and Utilities if rent is unpaid on any day after the day it is due under the tenancy agreement. 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 landlord did not appear in the hearing to provide evidence in support of their Notice, after being properly served with the tenant's application and notice of this hearing, I order that the Notice dated December 2, 2015, be cancelled, with the effect that the tenancy continues until it may otherwise legally end under the Act.

Conclusion

The tenant's application seeking cancellation of the Notice is granted as I have cancelled the landlord's Notice, dated December 2, 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: January 14, 2016

Residential Tenancy Branch

