



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR, MNR
CNR, CNC

Introduction

This hearing was scheduled in response to 2 applications:

- i) by the landlord for an order of possession for unpaid rent / and a monetary order as compensation for unpaid rent; and
- ii) by the tenant for cancellation of a notice to end tenancy for unpaid rent / and cancellation of a notice to end tenancy for cause.

The tenant attended and gave affirmed testimony. The landlord did not appear.

The tenant testified that he was served with the landlord's application for dispute resolution and notice of hearing (the "hearing package"). The tenant also testified that for a variety of reasons he had not served the landlord with his own hearing package.

Issue(s) to be Decided

Whether either party is entitled to the above under the Act, Regulation or tenancy agreement.

Background and Evidence

Pursuant to an "Intent to Rent" document the fixed term of tenancy is from June 01, 2015 to June 01, 2016. While monthly rent is \$375.00, the "Intent to Rent" document does not specify the date when rent is due and payable. The tenant testified that he has undertaken certain upgrades of the unit and / or the property which the landlord has accepted in lieu of payment of rent. The tenant also testified that no security or pet damage deposit was collected.

Pursuant to section 46 of the Act which addresses **Landlord's notice: non-payment of rent**, 3 separate 10 day notices to end tenancy for unpaid rent were issued by the landlord. Copies of these notices are before me in evidence as follows:

- i) dated March 01, 2016, and showing \$50.00 as unpaid;
- ii) dated April 01, 2016, and showing \$50.00 as unpaid; and
- iii) dated May 01, 2016, and showing \$100.00 as unpaid.

The tenant testified that all 3 of the above notices were personally served at the same time on May 04, 2016. Subsequently, the tenant filed an application to dispute the notice(s) on May 06, 2016. The tenant testified that he considers he is presently up-to-date with payment of rent.

Pursuant to section 47 of the Act which addresses **Landlord's notice: cause**, the landlord issued a 1 month notice to end tenancy dated May 04, 2016. The tenant's recollection is that this notice was served on May 04, 2016 along with the 10 day notices, as above. A copy of the 1 month notice was submitted in evidence. The reason identified on the notice in support of its issuance is as follows:

Tenant is repeatedly late paying rent

The tenant's application for dispute resolution filed on May 06, 2016, as referenced above, includes application for cancellation of the 1 month notice. The landlord's application for dispute resolution was filed on May 13, 2016.

Analysis

Based on the documentary evidence and the affirmed / undisputed testimony of the tenant, I find as follows:

- as there is no clear indication on the "Intent to Rent" document around when rent is due and payable, and in the absence of the landlord at the hearing scheduled partly in response to his application, the landlord's application for an order of possession for unpaid rent, and a monetary order as compensation for unpaid rent are both hereby dismissed;
- as the tenant has not served the landlord with his hearing package in accordance with section 89 of the Act, which addresses **Special rules for certain documents**, and in any event, as the landlord's application for an order of possession for unpaid rent has been dismissed, I make no finding

with regard to the tenant's application for cancellation of the notice(s) to end tenancy for unpaid rent;

- as there is no clear indication on the "Intent to Rent" document around when rent is due and payable, as the landlord was not present at the hearing scheduled partly in response to his application, and in any event, as the landlord has not applied for an order of possession for cause, and as the tenant has not served the landlord with his hearing package, I make no finding with regard to the tenant's application for cancellation of the 1 month notice to end tenancy for cause;
- following from all of the above, the tenancy continues uninterrupted.

Conclusion

The landlord's application is hereby dismissed, and the tenancy presently continues in full force and effect.

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: June 07, 2016

Residential Tenancy Branch