



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, O

Introduction

This was a hearing with respect to the tenant's application to cancel a Notice to End Tenancy for unpaid rent. The hearing was conducted by conference call. The tenant called in and participated in the hearing. The landlords did not attend. The tenant testified that he personally served the landlord with the application and Notice of Hearing. He testified that the landlords were out of town on a cruise.

Issue(s) to be Decided

Should the Notice to End Tenancy be cancelled?

Background and Evidence

The rental unit is a basement suite in the landlord's house in Vancouver. The tenant applied to cancel a 10 day Notice to End Tenancy for unpaid rent, although he did not submit a copy of the Notice to End Tenancy as evidence on the application. He said in his application that he received the Notice on July 11, 2016. He said in his application that:

Tenant seeks additional time to file and serve this application. Tenant seeks further time to pay rent due July 1, 2016 and cancellation of 10 day notice to end tenancy for failure to pay rent. Tenant is undergoing medical treatment for cancer and timing issues has arisen for the receipt of income to pay rent. Rent will be paid in full on or prior to July 25, 2016

The tenant submitted a faxed document as evidence sent on August 25, 2016. The document was a copy of an email dated July 25, 2016 to the tenant from a financial institution confirming that an "INTERAC e-transfer" in an undisclosed amount had been

accepted by the landlord. At the hearing the tenant said that the transfer was for the payment of July rent in the amount of \$1,435.00.

Analysis

The tenant requested at the hearing that a 10 day Notice to End Tenancy issued to him be cancelled. While it may be the case that the landlord has accepted the tenant's payment as reinstating the tenancy, the tenant did not submit a copy of the Notice to End Tenancy and he did not submit evidence to establish the amount paid to the landlord, however, based on the landlords' failure to attend the hearing despite having been personally served with the application, I infer that the landlord has accept the payment of July rent and I therefore find that a Notice to End Tenancy given for unpaid rent for July should be cancelled.

If the tenant applies to cancel any Notice to End Tenancy in the future, he is cautioned that his application is liable to be dismissed if he does not provide a copy of the Notice to End Tenancy as evidence.

Conclusion

The tenant's application is allowed.

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 15, 2016

Residential Tenancy Branch