



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Balmoral Hotel Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNR

Introduction

This hearing was reconvened in response to an application by the Tenant to cancel a notice to end tenancy pursuant to section 46 of the *Residential Tenancy Act* (the “Act”).

This matter was originally adjourned to allow the Landlord an opportunity to submit evidence to support the validity of the notice to end tenancy. The Landlord was made aware at the original hearing that a notice of reconvened would be forthcoming. Both Parties were sent a notice of reconvened hearing for this date and time by the Residential Tenancy Branch (the “RTB”). The Landlord did not attend this reconvened hearing and did not submit any evidence to the RTB or the Tenant in advance of this reconvened hearing.

The Tenant was given full opportunity under oath to be heard, to present evidence and to make submissions.

Issues to be Decided

Is the notice to end tenancy valid?

Background and Evidence

The tenancy started in March 2015. Rent of \$400.00 is payable on the first day of each month. The Tenant was given a 10 day notice to end tenancy for unpaid rent (the “Notice”). The Notice indicates that it was given to the Tenant by posting it on the door on October 3, 2016. The Tenant made its application to dispute the Notice on October 6, 2016. The Tenant states that the Notice is not valid.

Analysis

Section 46 of the Act requires that upon receipt of a 10 notice to end tenancy for unpaid rent the tenant must, within five days, either pay the full amount of the arrears indicated on the notice or dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. Where a notice to end tenancy is disputed the burden of proof that the notice is valid lays with the landlord. Based on the undisputed evidence of the Tenant I find that the Tenant disputed the Notice within the time required and that the Notice is not valid. As a result I find that the Tenant is entitled to a cancellation of the Notice. The tenancy continues.

Conclusion

The Notice is cancelled and is of no 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 Act.

Dated: December 21, 2016

Residential Tenancy Branch