



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Highland Court Inc.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNR, CNC, FF

Introduction

This is an application brought by the tenant requesting an order canceling a 10 day Notice to End Tenancy that was given for nonpayment of rent, requesting an order canceling a one month Notice to End Tenancy that was given for cause, and requesting recovery of the \$100.00 filing fee.

Some documentary evidence, and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all relevant submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All parties were affirmed.

Issue(s) to be Decided

The issues are whether or not to uphold or cancel both a 10 day Notice to End Tenancy, and a one-month Notice to End Tenancy.

Background and Evidence

The parties agree that this tenancy began on August 31, 2013 and that the present monthly rent is \$825.00, due on the first of each month.

The tenant has admitted that he was served with a 10 day Notice to End Tenancy for nonpayment of rent on February 3, 2017 that stated that rent was outstanding totaling \$1650.00.

The landlord testified that the amount on the original Notice to End Tenancy stated \$1650.00 in error as January 2017 rent was not outstanding, however the February 2017 rent of \$825.00 was also included in that notice, and that rent was outstanding, and was not paid until March 6, 2017.

The landlord's further testified that, when they discover their error, they re-served a 10 day Notice to End Tenancy that only had the February 2017 rent of \$825.00 listed as outstanding.

The tenant testified that he did not pay the \$825.00 February 2017 rent to the landlord until the landlord confirmed that the January 2017 rent had been paid.

The tenant is asking that the 10 day Notice to End Tenancy be canceled, and the landlord is asking that the 10 day Notice to End Tenancy be upheld and that an order of possession be issued.

Analysis

It is my decision that I will not cancel the 10 day Notice to End Tenancy, because section 46 of the Residential Tenancy Act allows the landlord to end the tenancy with a 10 day Notice to End Tenancy if the tenant fails to pay the rent on the date it was due, and in this case the tenant has admitted that he did not pay the February 2017 rent when it was due.

Further, the tenant did not pay the outstanding February 2017 rent within the five day timeframe during which the notice would have been voided.

It is my finding therefore that the 10 day Notice to End Tenancy has ended this tenancy and the tenant's application to have the notice canceled is dismissed.

Section 55 of the Residential Tenancy Act states:

55 (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant to the landlord an order of possession of the rental unit if

(a) the landlord's notice to end tenancy complies with section 52 [*form and content of notice to end tenancy*], and

(b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

In this case I have examined the Notice to End Tenancy and it is my finding that it does comply with section 52 of the Act, and it is my decision therefore that the landlords have the right to an order of possession.

As this tenancy is ending, pursuant to the 10 day Notice to End Tenancy, there is no need for me to make a finding on the validity of the one month Notice to End Tenancy.

Conclusion

I therefore dismiss this application without leave to re-apply, and, having determined that the landlord's notice to end tenancy complies with section 52 of the Act, I have issued an Order of possession, pursuant to Section 55 of the Act, enforceable 2 days after service on the tenant.

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: March 08, 2017

Residential Tenancy Branch

