



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR

Introduction

This hearing dealt with the tenant's application pursuant to section 46 of the *Residential Tenancy Act* (the "Act") for cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the "10 Day Notice").

The landlord along with the landlord's agent, CD (collectively the "landlord") and tenant attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlord confirmed receipt of the tenant's application for dispute resolution package. In accordance with sections 89 and 90 of the *Act*, I find that the landlord was duly served with the application.

Issue(s) to be Decided

Should the landlord's 10 Day Notice be cancelled? If not, is the landlord entitled to an order of possession?

Background and Evidence

As per the testimony of the parties, the tenancy began on November 1, 2016 on a month-to-month basis. Rent in the amount of \$1,000.00 is payable on the first of each month. The tenant remitted a security deposit in the amount of \$500.00 at the start of the tenancy. The tenant continues to reside in the rental unit.

The tenant confirmed personal receipt of the 10 Day Notice, dated February 8, 2017. This 10 Day Notice indicates rent in the amount of \$1,000.00 due February 1, 2017 remains outstanding and states an effective move-out date of February 18, 2017.

The tenant acknowledged that February and March rent remain outstanding. She testified that she tried to pay cash to the landlord on February 17, 2017 but the landlord refused to accept it.

Analysis

Section 46 of the *Act* provides that upon receipt of a notice to end tenancy for unpaid rent and utilities the tenant may, within five days, pay the overdue rent or dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch.

The tenant filed her application within five days but did not attempt to pay or pay February rent within those five days. Section 26 of the *Act* requires the tenant to pay rent on the date indicated in the tenancy agreement. The tenant was obligated to pay February rent and failed to do so.

Section 55 of the *Act* establishes that if a tenant makes an application for dispute resolution to dispute a landlord's notice to end tenancy, an order of possession must be granted to the landlord if, the notice to end tenancy complies in form and content and the tenant's application is dismissed or the landlord's notice is upheld. Section 52 of the *Act* provides that a notice to end tenancy from a landlord must be in writing and must be signed and dated by the landlord, give the address of the rental unit, state the effective date of the notice, state the grounds for ending the tenancy, and be in the approved form.

Based on the landlord's testimony and the notice before me, I find that the tenant was served with an effective notice. Accordingly I dismiss the tenant's application to cancel the 10 Day Notice and find that the landlord is entitled to a two (2) day order of possession, pursuant to section 55 of the *Act*.

Conclusion

I grant an order of possession to the landlord effective two (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 8, 2017

Residential Tenancy Branch