



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, RR

Introduction

The tenants apply to cancel a ten day Notice to End Tenancy dated February 4, 2017. They also claim a rent reduction however they indicated at hearing that they would be pursuing any monetary claim against the landlords under a future application.

Both tenants and the landlord Ms. P.S. attended the hearing and were given the opportunity to be heard, to present sworn testimony and other evidence, to make submissions, to call witnesses and to question the other. Only documentary evidence that had been traded between the parties was admitted as evidence during the hearing.

Issue(s) to be Decided

Is the ten day Notice a proper Notice given for good cause?

Background and Evidence

The rental unit is a two bedroom house. There is a written tenancy agreement though a copy was not provided for the hearing. The tenancy started in June 2000. The original monthly rent was \$885.00 and it has not been raised since the start of the tenancy. The landlords hold a \$442.50 security deposit.

The tenants pay the rent in cash. The landlords live a couple of blocks away and usually calls ahead and then come by the rental unit to collect it.

It is admitted that the tenants failed to pay the \$885.00 rent for both January and February 2017. The tenant Mr. J.S. had a heart attack and was in hospital for 28 days making rent payment problematic.

The tenants say they have mailed a money order to the landlords for the March 2017 rent. The landlord Ms. P.S. has not received it yet but hasn't checked her mail recently.

The tenants say the landlords owes them a total of four weeks of rent for problems back in the years 2001 and 2010. They produce rent receipts from those times indicating that the landlords would credit them a total of four weeks rent against the rent for the last month of the tenancy.

Though they do not have the landlords' agreement to credit the money any earlier, they want to apply the credits against current rent now.

The attending landlord denies any such agreement to credit rent and says that the purported written acknowledgments on the rent receipts were added later by the tenants, without the landlords' knowledge or consent.

She says the tenants owe rent of \$235.00 for September 2015 and full rent of \$885.00 for October, November and December 2015 and January 2016.

The tenants deny owing the money and say that if they owed it then why have the landlords taken so long to claim it.

Analysis

I make no finding about whether the rent receipts evince an agreement to credit the tenants for four weeks of rent. Even if they did; even if there were such agreements, that money is to be credited at the end of the tenancy, not now. The tenants are not at liberty to change the agreement and have the money credited earlier.

I find that the tenants have failed to pay at least the January and February 2017 rent.

The Notice in question is, however, defective. It is in the form approved by the director under the *Residential Tenancy Act*, but in the area in which the landlord is required to state how much the tenants have failed to pay, the landlord Ms. P.S. as written "\$885 + \$885." Below that, in a blank area of the form, she has written "Previous Balance owing 3695.00."

It is not clear from the Notice what amount the tenants have to pay to the landlords within the five day period in order to cancel the Notice; whether it is the "\$885 + \$885" or the \$3695.00 or a total of the two.

The ending of a tenancy is a very serious matter. A landlord giving a Notice to End Tenancy will be held to strict compliance with the rules.

It follows that the Notice is a defective Notice and must be cancelled.

The landlords are free to issue another Notice for rent they calculate to be owed.

Conclusion

The tenants' application is allowed. The ten day Notice to End Tenancy dated February 4, 2017 is hereby cancelled.

This decision was rendered orally at hearing and 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