



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding NAVIAL VISTA APARTMENTS
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNR

Introduction

On March 6, 2017, the Tenant made an Application for Dispute Resolution to cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, dated March 3, 2017

The matter was set for a conference call hearing. Both parties attended the teleconference hearing. The hearing process was explained. The parties were provided with an opportunity to ask questions about the hearing process. They were provided with the opportunity to present affirmed oral testimony and to make submissions during the hearing.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue to be Decided

- Should the 10 Day Notice dated March 3, 2017, be cancelled?

Background and Evidence

The parties testified that the tenancy began on December 12016, as a 1 year fixed term tenancy. Rent in the amount of \$825.00 is to be paid on the first day of each month. The Tenant paid the Landlord a security deposit of \$412.50.

The Landlord testified that the Tenant did not pay the rent for March 2017, when it was due under the tenancy agreement.

The Landlord testified that the Tenant was served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated March 3, 2017 ("the 10 Day Notice"). The Landlord testified that the Tenant was served with the Notice in person on March 3, 2017.

The 10 Day Notice states that the Tenant has failed to pay rent in the amount of \$412.50 which was due on March 1, 2017. The 10 Day Notice informed the Tenant that the Notice would be cancelled if the rent was paid within five days. The 10 Day Notice also explains the Tenant had five days to dispute the Notice.

The Tenant acknowledged receiving the 10 Day Notice and disputed the Notice on March 6, 2017, within the required timelines.

The Landlord testified that the Tenant paid the rent that was outstanding on March 21, 2017.

The Tenant testified that due to noise in the rental property she was unable to work and was not able to pay the full amount of rent when it was due. The Tenant testified that she has paid the rent for April 2017, and would like the tenancy to continue.

The Landlord testified that she is not seeking to end the tenancy and agreed to withdraw the 10 Day Notice.

Analysis

Section 26 of the Act states that a Tenant must pay rent when its due under the tenancy agreement, whether or not the Landlord complies with this Act, the regulations, or the tenancy agreement, unless the Tenant has a right under the Act to deduct all or a portion of the rent.

Based on the evidence before me, the testimony of the parties, and on a balance of probabilities, I find that the Tenant did not pay the rent owing under the tenancy agreement within five days of receiving the 10-Day Notice, and did not have the authority to withhold payment of the rent.

The Landlord was entitled to an order of possession but declined to end the tenancy.

The Landlord withdrew the 10 Day Notice and agreed that the tenancy can continue.

I dismiss the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated March 3, 2017.

The tenancy will continue until ended in accordance with the Act.

Conclusion

The Landlord withdrew the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated March 3, 2017.

The tenancy will continue until ended in accordance with the Act.

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: April 06, 2017

Residential Tenancy Branch