



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 the *Residential Tenancy Act* ("Act") for cancellation of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 47.

The landlord did not attend this hearing which lasted approximately 15 minutes. The tenant attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The tenant acknowledged receipt of the 10 Day Notice on or about May 12, 2017 when it was posted on her rental unit door. The tenant testified that she filed an application for dispute resolution on May 17, 2017 and served it on the landlord by registered mail on that same date. The tenant provided a copy of a Canada Post tracking number as evidence of service. Based on the undisputed testimony of the tenant and in accordance with section 89(1) of the *Act*, I find that the landlord was duly served with the tenant's application on May 22, 2017, five days after mailing.

Issue(s) to be Decided

Should the 10 Day Notice be cancelled?

Background and Evidence

The tenant provided undisputed testimony regarding this tenancy. This tenancy began in November, 2016. The monthly rent is \$1,600.00. The tenancy agreement does not state the date in which the rent is payable but by mutual agreement with the landlord the

tenant has been paying on the 20th of each month. Utilities are included in the rent and the tenant has never made separate payment for utility fees.

Analysis

Section 46 of the *Act* provides that upon receipt of a notice to end tenancy for non-payment of rent the tenant may, within ten days, dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. I find that the tenant has filed the application for dispute resolution on May 17, 2017, within the ten days allotted after being served on or about May 12, 2017.

When the tenant files an application to dispute the notice, the landlord bears the burden to prove the grounds for the 10 Day Notice. Because the landlord did not attend the hearing, I find the landlord has failed to satisfy the burden of proof and I therefore allow the tenant's application to cancel the 10 Day Notice.

Conclusion

The tenant's application to cancel the 10 Day Notice is allowed. The Notice is of no continuing force or effect. This tenancy continues 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: June 28, 2017

Residential Tenancy Branch