



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

CNR, FF

Introduction

This hearing was convened in response to the Tenant's Application for Dispute Resolution, in which the Tenant applied to set aside a Notice to End Tenancy for Unpaid Rent and to recover the fee for filing this Application.

The Tenant stated that on June 08, 2017 the Application for Dispute Resolution, the Notice of Hearing, and the evidence submitted to the Residential Tenancy Branch with the Application were sent to the Landlord, via registered mail, at the service address noted on the Application. The Tenant cited a tracking number that corroborates this statement. In the absence of evidence to the contrary, I find that these documents have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*; however the Landlord did not appear at the hearing.

Issue(s) to be Decided

Should the Notice to End Tenancy for Unpaid Rent be set aside?

Background and Evidence

The Tenant stated that:

- the tenancy began on July 01, 2016;
- the rent of \$1,200.00 is due by the first day of each month;
- the tenancy agreement requires her to pay the hydro bill;
- on May 31, 2016 she found a Ten Day Notice to End Tenancy posted on her door, which declared she must vacate by June 10, 2017;
- when this Notice to End Tenancy was received she did not owe any rent; and
- when this Notice to End Tenancy was received she did not owe any utilities to the Landlord, although she did owe money to her hydro supplier.

The Notice to End Tenancy does not declare that any money is owed to the Landlord for rent or utilities.

Analysis

Section 46(1) of the *Act* permits landlords to end a tenancy if the tenant owes rent.

Section 46(6) of the *Act* permits landlords to end a tenancy if the tenant is required to pay utilities to the landlord and the utility charges are unpaid more than 30 days after the tenant is given a written demand for payment of them.

As there is no evidence that the rent was overdue when this Notice to End Tenancy was received or that the Tenant was required to pay utilities to the Landlord, I find that there is insufficient evidence to conclude that the Landlord had the right to serve the Ten Day Notice to End Tenancy that is the subject of this dispute. I therefore grant the Tenant's application to set aside this Notice to End Tenancy.

I find that the Tenant's Application for Dispute Resolution has merit and I therefore grant her application to recover the fee for filing this Application. The Tenant stated that she would like to recover this fee by reducing one rent payment.

Conclusion

The Ten Day Notice to End Tenancy that is the subject of this dispute is set aside.

I grant the Tenant authority to reduce one monthly rent payment by \$100.00 in compensation for the fee paid to file this Application for Dispute Resolution.

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: July 28, 2017

Residential Tenancy Branch