



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR OLC PSF

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* ("Act") for:

- a cancellation of a notice to end tenancy for unpaid rent pursuant to section 46 of the Act,
- an Order directing the landlord to comply with the Act pursuant to section 62; and
- an Order directing the landlord to provide services or facilities required by law pursuant to section 65 of the Act.

The tenant and the landlord's agent J.B. attended the hearing by way of conference call. Both parties were given a full opportunity to be heard, to present testimony, to make submissions and to call witnesses.

The tenant confirmed receipt of a 10 Day Notice to End Tenancy for Unpaid Rent ("10 Day Notice") posted on the door of the rental unit on December 4, 2018. I find that in accordance with section 88 of the Act the 10 Day Notice was duly served on the tenant.

Following opening remarks, the tenant explained that she wished to amend her application for dispute, to focus solely on her application to cancel the landlord's 10 Day Notice. Pursuant to section 64(3)(c) of the Act, I amend the tenant's application to reflect this request. This amendment does not prejudice any future application which the tenant may pursue.

Issue(s) to be Decided

Can the tenant cancel the landlord's 10 Day Notice? If not, is the landlord entitled to an order of possession?

Background and Evidence

The landlord's agent explained that this tenancy began in May 2014. Rent was \$650.00 at the outset of the tenancy and was recently increased to \$674.05. This rent increase

took effect on January 1, 2018. A security deposit of \$325.00 collected at the outset of the tenancy continues to be held by the landlord.

The landlord's agent said that the 10 Day Notice issued on December 4, 2017 was meant to reflect a rental increase that was set to take effect January 1, 2018. The landlord's agent explained that the landlord was inadvertently late serving notice of a rental increase, and that this caused the rental increase to take effect on January 1, 2018 rather than the anticipated December 1, 2017 date.

Analysis

Section 46 of the *Act* states, "A landlord may end a tenancy if rent is unpaid on any day after the day it is due."

Based on the oral testimony of the landlord's agent, I find that no rent was unpaid as indicated on the 10 Day Notice, and that the amount listed on the 10 Day Notice to be inaccurate. The landlord's agent acknowledged that the landlord had inadvertently served the 10 Day Notice prematurely, and that rent for December 2017 was \$650.00. The landlord's agent confirmed that this amount was paid and that rent of \$674.05 was due January 1, 2018, not on December 1, 2017. For these reasons, I dismiss the 10 Day Notice to End Tenancy.

Conclusion

The tenant was successful in cancelling the 10 Day Notice. This tenancy shall continue until it is 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: February 21, 2018

Residential Tenancy Branch