



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BRIGHTSIDE COMMUNITY HOMES FOUNDATION
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNR, FFT

Introduction

This is an Application for Dispute Resolution (“Application”) by the Tenant to cancel a 10-Day Notice to End Tenancy for Unpaid Rent and for a payment of the filing fee of \$100.00.

The Tenant appeared for the scheduled hearing. The Landlord did not call into the conference line; the Tenant provided the registered mail tracking code as he testified that he had served the Landlord the Notice of Hearing and his evidence by registered mail; I verified that the package was delivered to the Landlord and a signature recorded by Canada Post on April 24, 2018. I am satisfied the landlord has been served in accordance with the Act and received the hearing documents on April 24, 2018.

I left the teleconference hearing connection open until 10:05 a.m. in order to enable the Landlord to call into this teleconference hearing scheduled for 9:30 a.m. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the Tenant and I were the only ones who had called into this teleconference.

The Tenant attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call any witnesses.

Issue(s) to be Decided

Is the Tenant entitled to a cancellation of the 10-Day Notice to End Tenancy for Unpaid Rent, pursuant to section 46(4) of the Residential Tenancy Act (“Act”)?

Is the Tenant entitled to recovery of the filing fee, pursuant to section 72 of the Act?

Background and Evidence

The Tenant did not submit the 10-Day Notice to End Tenancy but testified that it stated he owed \$323.00 for rent as of April 1, 2018. He states that this stemmed from a letter dated January 4, 2018 from the Landlord which reads: *“You have not provided us with all the documents required in order to calculate your rent subsidy. Your rent contribution will be adjusted \$998.00 (market rent).”*

The effective date of the rent increase was April 1, 2018. Most recently, the Tenant was paying \$700.00 per month in rent. He has resided at the premises since 1997. The Tenant states that he receives a grant through a program for seniors housing and that regular documentation was provided last December. He argues that the Landlord has unilaterally raised the rent without providing the proper notice under section 42 of the Act and that the amount is excessive.

Analysis

Rule 7.3 of the Residential Tenancy Branch Rules of Procedure states if a party or their agent fails to attend a hearing, the Arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the Application, with or without leave to re-apply. As the Applicant was present and prepared to proceed, the hearing went ahead as scheduled.

The burden of proof falls to the Landlord to prove the validity of the 10-Day Notice to End Tenancy. The Landlord has failed to appear or to present a copy of the notice for my consideration; there is also no evidence of rent arrears presented by the Landlord. Accordingly, I am granting the Tenant's application to cancel the notice as the Landlord has failed to meet the burden of proof.

Accordingly, the Notice to End the Tenancy is canceled and of no force or effect. The tenancy shall continue until terminated by either party with proper notice. As the Tenant was successful in his Application, I am awarding the filing fee of \$100.00. I order, pursuant to Section 72(2)(a) the tenant may deduct this amount from one future rent payment in satisfaction of this award..

The only issue in this Application is the cancellation of the 10-Day Notice to End the Tenancy; the Tenant raised arguments regarding the validity of the rent increase as

stated in the letter from the Landlord, however, I am not inclined to make any findings of fact with respect to this increase as the issue is not before me.

Conclusion

The 10-Day Notice to End Tenancy dated April 12, 2018 served by the Landlord on the Tenant is hereby cancelled.

The Tenant is entitled to recovery of the filing fee of \$100.00.

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: May 17, 2018

Residential Tenancy Branch