



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, FF

Introduction

On May 15, 2018 a hearing was conducted via conference call between these two parties. The tenant attended, but the landlord did not. The tenant served the landlord via registered mail on April 24, 2018 with the notice of hearing package seeking an order to cancel the 10 Day Notice and recovery of the filing fee. The tenant was granted an order cancelling the 10 Day Notice and recovery of the \$100.00 filing fee. The landlord applied for a review of this decision for being unable to attend. The arbitrator ordered the decision and accompanying order suspended pending a review hearing for the tenant's application.

This is a review hearing granted for the tenant's application pursuant to the *Residential Tenancy Act* (the Act) for:

- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46;
- authorization to recover his filing fee for this application from the landlord pursuant to section 72.

Both parties attended the hearing via conference call and provided affirmed testimony. Both parties confirmed receipt of the notice of a review hearing package and the submitted documentary evidence. As both parties have attended and have confirmed receipt of the notice of a review hearing package and all the submitted documentary evidence, I am satisfied that both parties have been sufficiently served as per section 90 of the Act.

Issue(s) to be Decided

Is the tenant entitled to an order cancelling the 10 Day Notice?

Is the tenant entitled to an order for recovery of the filing fee?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

Both parties confirmed that a 10 Day Notice dated April 12, 2018 was served to the tenant via Canada Post Registered Mail. The 10 Day Notice stated that the tenant failed to pay rent of \$323.00 that was due on April 1, 2018. It also sets out an effective end of tenancy date of April 22, 2018.

The tenant argued that the landlord has failed to properly serve him a notice of a rent increase in the approved form for the \$323.00 rent increase and argues that the 10 Day Notice for which the rent increase is based is not valid.

The landlord stated that the 10 Day Notice is not based upon a rent increase, but instead on the tenant no longer qualifying for a rent subsidy and that full market rent now applies. The landlord claims that the tenant failed to complete the provided annual rent review documentation as per the signed tenancy agreement.

Analysis and Conclusion

Section 63 of the Residential Tenancy Act provides that the parties may attempt to settle their dispute during a hearing. Pursuant to this provision, discussion between the two parties during the hearing led to a resolution. Specifically, it was agreed as follows:

The tenant agrees to cancel the application for dispute.

The landlord agrees to withdraw the 10 Day Notice to End Tenancy for Unpaid Rent dated April 12, 2018.

The tenant agreed to complete and return the annual income review checklist and all relevant documentation to the landlord within 2 weeks of the date of this hearing (July 18, 2018).

Both parties agreed that the above noted particulars comprised a full and final settlement of all aspects of the dispute arising from this application for dispute resolution.

The parties confirmed at the end of the hearing that this agreement was made on a voluntary basis and that the parties understood the nature of this full and final settlement of this matter.

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 18, 2018

Residential Tenancy Branch