



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 an Application for Dispute Resolution by the Tenant filed under the Residential Tenancy Act (the “Act”), to cancel a 10-Day Notice to End Tenancy for Unpaid Rent or Utilities (the “Notice”), issued December 8, 2018. The matter was set for a conference call.

One of the Tenants attended the hearing and was affirmed to be truthful in her testimony. As the Landlord did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered. Section 59 of the *Act* and the Residential Tenancy Branch Rules of Procedure states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing. The Tenant testified the Application for Dispute Resolution, and Notice of Hearing had been personally served to the Landlord by the Tenant on December 21, 2018. I find that the Landlord had been duly served in accordance with the Act.

The Tenant was provided with the opportunity to present her evidence orally and in written, documentary form, and make submissions at the hearing.

Issue to be Decided

- Should the Notice issued on December 8, 2018, be cancelled?

Background and Evidence

The Notice was personally served on the Tenant indicating that the Tenant was outstanding \$4.97 for a utility bill payment.

The Tenant testified that the utilities were included in her rent and denied that there were any amounts of money outstanding for this tenancy.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

In a case where a tenant has applied to cancel a Notice, Rule 7.18 of the Residential Tenancy Branch Rules of Procedure require the landlord to provide their evidence submission first, as the landlord has the burden of proving cause sufficient to terminate the tenancy for the reasons given on the Notice.

This matter was set for hearing by telephone conference call at 9:30 A.M. on this date. The line remained open while the phone system was monitored for ten minutes and the only participant who called into the hearing during this time was the Tenant.

Since the Landlord did not attend the hearing by 9:41 a.m. to present any evidence or submission in support of the Notice, and the burden is on the landlord to prove the Notice was issued for the reasons stated. I find that the Landlord has failed to show cause to end the tenancy.

Therefore, I grant the Tenant's application to cancel the Notice issued on December 8, 2018, and the Notice has no force or effect. The tenancy will continue until legally ended in accordance with the Act.

Conclusion

The Tenant's application to cancel the Notice is granted. The tenancy will continue until legally 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 1, 2019

Residential Tenancy Branch