



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, FF

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 on May 30, 2019.

The tenant’s agent attended the hearing. As the landlord did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

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’s agent testified the Application for Dispute Resolution and Notice of Hearing were sent by registered mail sent on June 4, 2019, to the address stated in the Notice. A Canada post tracking number was provided as evidence of service.

Section 90 of the Act determines that a document served in this manner is deemed to have been served five days later. I find that the landlord has been duly served in accordance with the Act.

The tenant’s agent testified the package was returned unclaimed. The agent stated that a copy was also sent to the landlord’s property manager JL, who is named in the Notice, by email on June 13, 2019, which they acknowledged receipt.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to relevant facts and issues in this decision.

Issue to be Decided

Should the Notice be cancelled?

Background and Evidence

The tenant's agent testified that the tenant received the Notice on May 30, 2019. The agent stated all rent was paid on May 31, 2019, to the landlord's agent JL, which would automatically cancel the notice.

The agent stated that they disputed the notice to end tenancy as there were issues with the validity of the notice, as the landlord's agent who's is named in the Notice stated it was not authorized by them and the issue of the tenancy had to be dealt with the owner.

Filed in evidence is a copy of the Notice, and correspondence between the parties.

Analysis

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

I accept the undisputed evidence of the tenant's agent that rent was paid within five days as required by section 46 of the Act. I find the Notice has no force or effect. The tenancy will continue in accordance with the Act.

Further, I accept the evidence of the tenant's agent that the landlord's agent JL did not issue the Notice. The Notice named JL as the landlord; however, an unknown person signs it. The email correspondence between the tenant and JL support this.

Although there was no requirement for the tenant to dispute the Notice, I find the landlord created confusion issuing the Notice in their property management's name, who had no knowledge of it being issued. I find it reasonable that the tenant made the application to ensure their tenancy was not at risk.

Therefore, I find it appropriate to grant the tenant the recovery of the filing fee. The tenant is authorized a onetime rent reduction in the amount of \$100.00. The tenant is entitled to deduct this amount from August rent in full satisfaction of this award.

Conclusion

The tenant's application to cancel the Notice is granted. The tenancy will continue until legally ended in accordance with the Act. The tenant is entitled to a onetime rent reduction to recover the filing fee from the landlord.

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 11, 2019

Residential Tenancy Branch