



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR

Introduction

This hearing dealt with the tenant's application for dispute resolution under the Residential Tenancy Act (the "Act") seeking an order cancelling the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice").

The tenant attended the hearing; however, the landlord did not attend.

The tenant stated he served the landlord with his application for dispute resolution and Notice of Hearing by registered mail on June 20, 2019. The tenant provided the Canada Post Customer Receipt containing the Tracking Number to confirm this mailing. That number is listed on the style of cause page in this Decision.

I accept the tenant's evidence that the landlord was served notice of this hearing in a manner complying with section 89 of the Act and the hearing proceeded in the landlord's absence.

The tenant was provided the opportunity to present his evidence orally and make submissions to me.

I have reviewed all relevant evidence before me that met the requirements of the Dispute Resolution Rules of Procedure (the "Rules"); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Preliminary Issue

The tenant did not provide a copy of the Notice in advance of the hearing. The tenant read from the Notice during the hearing and he was allowed to upload that document

within three (3) hours after the hearing. The tenant was informed that if he failed to do so within the timeframe, I would dismiss his application.

I note that the tenant complied and uploaded a copy of the Notice shortly after the hearing. I therefore considered his application.

Issue(s) to be Decided

Is the tenant entitled to have the Notice cancelled and to recover the filing fee paid for the application?

Background and Evidence

The tenant submitted that this tenancy began in March 2016 and that monthly rent is \$940.00.

The tenant submitted that he received the Notice when it was posted on the door on June 10, 2019, at which time he made his application in dispute of the Notice. The Notice was dated June 10, 2019, and listed a move-out date of June 23, 2019.

The Notice said the tenant failed to pay the monthly rent of \$940.00 for the month of March 2019.

The tenant submitted that the Notice was invalid as he paid that monthly rent and had the money order receipt to show for it. The tenant also said that he has never missed rent and showed the landlord the receipt.

The tenant submitted that the landlord texted him and said he did not want to go forward on the Notice and asked the tenant to cancel the hearing.

Analysis

In the case before me, the tenant had five days from June 10, 2019, to file his application in dispute of the Notice. The tenant's application was filed June 10, 2019 and I find the tenant made a timely application to dispute the Notice.

When a landlord issues a notice to end tenancy and the tenant files an application to dispute the notice, the landlord must prove that there is sufficient cause under the Act to end the tenancy.

As the landlord did not appear in the hearing to provide evidence in support of the Notice, after being properly served with the notice of this hearing, I order that the Notice dated June 10, 2019, is cancelled, with the effect that the tenancy continues until it may legally end under the Act.

I allow the tenant recovery of his filing fee of \$100.00.

I direct the tenant to deduct the amount of \$100.00 from his next or a future month's rent in satisfaction of that monetary award. The tenant should inform the landlord when he is making this deduction and the landlord may not serve the tenant a Notice to end the tenancy under this circumstance, for a rent deficiency.

Conclusion

The Notice which is the subject of this dispute resolution is hereby cancelled, of no force or effect, and the tenancy continues until it may otherwise end under the Act.

The tenant is granted recovery of his 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: July 31, 2019

Residential Tenancy Branch