



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, OLC, FF

Introduction

This hearing dealt with the tenant's application to cancel a notice to end tenancy, issued by the landlord for non-payment of past rent. The tenant also applied for an order directing the landlord to comply with the *Act* and for the recovery of the filing fee.

Both parties attended this hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The parties represented themselves. As both parties were in attendance, I confirmed service of documents. The parties stated that they had not served each other with a copy of their evidence packages. Accordingly none of the evidence that was uploaded to their electronic files was used in the making of this decision.

Background and Evidence

The tenancy started in March 2014. The tenant stated that the monthly rent was \$1,255.00 due in advance on the first day of the month. The landlord argued that the rent was \$1,320.00 which included rent increases from the previous years.

Sometime in the last week of May 2019, the tenant served the landlord with notice to end the tenancy effective July 01, 2019. On June 09, 2019, the landlord served the tenant with a notice to end tenancy for outstanding unpaid rent increases from past years in the amount of \$1,594.00. The effective date of the notice was June 19, 2019.

The tenant stated that since he had planned to move out on July 01, 2019, he was worried that the landlord would evict him before that date and would place his belongings out in the street. For this reason, the tenant disputed the notice to end tenancy.

The landlord stated that since the start of tenancy, the tenant was served three notices of rent increase which he ignored and did not pay the increase. The last notice was

served in March 2019 which became effective on July 01, 2019. However, the tenant moved out before the last increase became effective. The landlord stated that the tenant owes the rent increase for the previous years. She stated that she did not realize that the tenant was not paying the increased amount and therefore she did not follow up. The tenant moved out on July 01, 2019.

Analysis

Based on the sworn testimony of both parties, I find that the tenant received the notice to end tenancy for cause, on June 09, 2019 and applied to dispute the notice within the legislated time frame of ten days. The tenant has already moved out and therefore his application to cancel the notice is moot and accordingly dismissed.

Since the tenant had paid rent which did not include the most recent rent increase because it was not yet in effect, I find that the landlord should have made an application for a monetary award for past increases instead of serving the tenant with a notice to end tenancy. However, because the effective date of the notice was prior to the date that the tenancy was ending, the tenant was forced to make an application to cancel that notice to end tenancy. I find that the tenant is entitled to recover the filing fee.

I grant the tenant a monetary order under section 67 of the *Residential Tenancy Act*, for **\$100.00**. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Conclusion

I grant the tenant a monetary order for \$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 30, 2019

Residential Tenancy Branch