



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Atira Property Management
and [tenant name suppressed to protect
privacy]

DECISION

Dispute Codes CNR, LRE, FFT

Introduction

This hearing was convened in response to an application by the Tenant pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order cancelling a notice to end tenancy - Section 46;
2. An Order restricting the Landlord’s right of entry - Section 70; and
3. An Order to recover the filing fee for this application - Section 72.

The Landlord did not attend the hearing. I accept the Tenant’s evidence that the Landlord was served with the application for dispute resolution, notice of hearing and all evidence (the “Materials”) by registered mail on January 24, 2020 in accordance with Section 89 of the Act. Section 90 of the Act provides that a document served in accordance with section 89 of the Act is deemed to be received if given or served by mail, on the 5th day after it is mailed. Given the evidence of registered mail I find that the Landlord is deemed to have received the Materials on January 29, 2020.

The Tenant was given full opportunity to be heard, to present evidence and to make submissions. The Tenant withdraws the claim in relation to the Landlord’s entry.

Issue(s) to be Decided

Is the notice to end tenancy valid?

Is the Tenant entitled to a cancellation of the notice to end tenancy?

Is the Tenant entitled to recovery of the filing fee?

Background and Evidence

The tenancy under written agreement started on April 1, 2018. As of July 1, 2019, rent of \$936.00 is payable on the first day of each month. On January 17, 2020 the Tenant was given a 10 day notice to end tenancy for unpaid rent (the "Notice"). The Notice sets out that rent of \$546.65 due on January 1, 2020 was unpaid. The Tenant paid the rent in full for January 2020 and provides a receipt for this payment. The amount indicated on the Notice as unpaid rent is not unpaid rent and is only a plumbing bill.

Analysis

Section 46(1) of the Act provides that a landlord may end a tenancy if rent is unpaid on any day after the day it is due, by giving notice to end the tenancy effective on a date that is not earlier than 10 days after the date the tenant receives the notice. Based on the undisputed evidence that the rent was paid in full for January 2020 I find that the Notice is not valid for unpaid rent. I caution the Landlord that it may only issue a 10-day notice where rent is unpaid. No other amounts that may or may not be owed by the Tenant may be used to end a tenancy for unpaid rent. As the Notice is not valid, I find that the Tenant is entitled to a cancellation of the Notice and the tenancy continues. As the Tenant's claim has been successful, I find that the Tenant is entitled to recovery of the \$100.00 filing fee. The Tenant may deduct this amount from future rents payable.

Conclusion

The Notice is cancelled, and the tenancy continues.

I grant the Tenant an order under Section 67 of the Act for **\$100.00**. If necessary, this order may be filed in the Small Claims Court and enforced as an order of that Court.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act.

Dated: March 24, 2020

Residential Tenancy Branch