



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 by the tenant under the *Residential Tenancy Act* (the *Act*) for the following:

- Cancellation of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (“Ten Day Notice”) pursuant to section 46.

The tenant attended the hearing and was given the opportunity to make submissions as well as present affirmed testimony and written evidence. The hearing process was explained, and an opportunity was given to ask questions about the hearing process.

The landlord did not appear at the hearing. I kept the teleconference line open from the scheduled time for the hearing for an additional fifteen minutes to allow the landlord the opportunity to call. The teleconference system indicated only the tenant and I had called into the hearing. I confirmed the correct call-in number and participant code for the landlord had been provided.

The tenant explained that the named respondent is an agent of the corporate landlord. The address for the corporation is known to the tenant and is the business address for the agent; this address is set out in the Ten-Day Notice.

The tenant provided affirmed testimony that they delivered the Notice of Hearing and Application for Dispute Resolution by personally leaving a copy of the documents in the mailbox of the landlord's agent on March 7, 2020 at the agent's and the corporation's business address.

I find the landlord was sufficiently served with the documents on March 7, 2020 further to section 71(2)(c) of the *Act*.

Preliminary Issue

I explained to the tenant that section 55 of the *Act* requires that when a tenant submits an Application for Dispute Resolution seeking to cancel a notice to end tenancy issued by a landlord, I must consider if the landlord is entitled to an order of possession if the tenant's Application is dismissed and the landlord has issued a notice to end tenancy that is compliant with the *Act*.

Further to this, the standard of proof in a dispute resolution hearing is on a balance of probabilities. Usually the onus to prove the case is on the person making the claim.

However, in situations such as in the current matter, where a tenant has applied to cancel a landlord's Ten-Day Notice, I explained that the onus to prove the reasons for ending the tenancy transfers to the landlord as the landlord issued the Notice and seeks to end the tenancy.

As the landlord did not attend and as I have found the landlord was served with the Notice of Hearing and Application for Dispute Resolution, I find the landlord submitted no evidence admissible under the *Act* and Rules of Procedure.

As no evidence was submitted on behalf of the landlord, I order that the tenant's application to cancel the Notice to End Tenancy is granted. I order that the tenancy shall continue until ended in accordance with the agreement and the *Act*.

Conclusion

I order that the tenant's application to cancel the Notice to End Tenancy is granted. I order that the tenancy shall continue until ended in accordance with the agreement and 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: May 01, 2020

Residential Tenancy Branch