



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BURR PROPERTIES
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNR-MT

Introduction

This hearing dealt with an Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (Act) by the tenant to cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated July 23, 2021 (10 Day Notice) and for more time to make an application to dispute a 10 Day Notice.

The tenant and an outreach worker for the tenant, SP-D (outreach worker) attended the teleconference hearing. The tenant and the outreach worker gave affirmed testimony and was provided the opportunity to present their evidence orally and in written and documentary form and make submissions to me.

As the landlord did not attend the hearing, service of the Notice of a Dispute Resolution Hearing dated August 16, 2021 (Notice of Hearing) was considered. The tenant testified that the landlord was served with the Notice of Hearing on August 18, 2021 via registered mail. A registered mail tracking number was provided during the hearing and has been included on the style of cause for ease of reference. According to the Canada Post online registered mail tracking website, the registered mail package was delivered on August 20, 2021 and was addressed to the mailing address of the landlord. Given the above, I am satisfied that the landlord was served and did not attend the hearing. Therefore, I consider this matter undisputed by the landlord. The hearing continued without the landlord pursuant to Residential Tenancy Branch (RTB) Rules of Procedure (Rules) 7.1 and 7.3, which address consequences for failing to attend a dispute resolution hearing.

Issue to be Determined

Should the 10 Day Notice be cancelled?

Background and Evidence

The tenant applied to cancel the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, however, did not submit a copy of the 10 Day Notice in evidence. The tenant stated that they did not apply to dispute the 10 Day Notice until July 30, 2021 as they misplaced the 10 Day Notice and was waiting to consult with TAPS. The tenant's application reads that the 10 Day Notice was posted to the tenant's door on July 23, 2021.

The outreach worker stated that they have attempted to contact the landlord on behalf of the tenant, and that the landlord has not responded to the tenant or the outreach worker. The tenant and outreach worker confirmed that rent has been paid since the 10 Day Notice was issued and that the landlord has not issued receipts for use and occupancy only.

The tenant and outreach worker believe the tenancy has been reinstated as a result.

Analysis

Based on the documentary evidence and the oral testimony provided during the hearing, and on the balance of probabilities, I find the following.

Although the tenant did not file their application within 5 days of receiving the 10 Day Notice, I find that based on the undisputed evidence before me, that the landlord has reinstated the tenancy by accepting rent from the tenant since issuing the 10 Day Notice and not issuing the tenant receipts for "use and occupancy only".

As a result, while I dismiss the tenant's application for more time to make an application to cancel a 10 Day Notice, I find the tenant has been reinstated by the landlord's actions by failing to issue receipts for "use and occupancy only" since being paid for subsequent rent since the 10 Day Notice was issued. Therefore, I find the tenancy shall continue until ended in accordance with the Act pursuant to section 62(3) of the Act.

As the filing fee was waived, it is not granted.

Conclusion

The tenancy has been reinstated and shall continue until ended in accordance with the Act.

This decision will be emailed to the tenant and sent by regular mail to the landlord.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: December 7, 2021

Residential Tenancy Branch