



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 1284969 BC LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

CNR, FFT

Introduction

This hearing was convened in response to the Tenant's Application for Dispute Resolution, in which the Tenant applied to cancel a Ten Day Notice to End Tenancy for Unpaid Rent or Utilities and to recover the fee for filing this Application for Dispute Resolution.

The Tenant stated that on September 21, 2021 the Dispute Resolution Package and evidence submitted to the Residential Tenancy Branch on September 20, 2021 was placed under the Landlord's office door in the residential complex. Although section 89(1) of the *Residential Tenancy Act (Act)* does not permit hearing documents to be served by placing them under the door of a business address, I find that these documents have been sufficiently served to the Landlord pursuant to section 72(c) of the *Act*.

I find that the aforementioned documents have been sufficiently served to the Landlord because I am satisfied the Landlord received the documents. I am satisfied the Landlord received the hearing documents because on January 20, 2022 the Landlord submitted evidence to the Residential Tenancy Branch in response to the Tenant's claims.

As I am satisfied the aforementioned documents have been sufficiently served to the Landlord, the hearing proceeded in the absence of the Landlord and the Tenant's evidence was accepted as evidence for these proceedings.

The Tenant stated that the Landlord did not serve him with any evidence for these proceedings. As the Landlord did not attend the hearing to establish that the Landlord's evidence was served to the Tenant and the Tenant denies receipt of the evidence, the Landlord's evidence was not accepted as evidence for these proceedings.

The Tenant was given the opportunity to present relevant oral evidence, to ask relevant questions, and to make relevant submissions. The Tenant affirmed that he would speak the truth, the whole truth, and nothing but the truth during these proceedings.

The Tenant was advised that the Residential Tenancy Branch Rules of Procedure prohibit private recording of these proceedings. The Tenant affirmed that he would not record any portion of these proceedings.

Issue(s) to be Decided

Should the Notice to End Tenancy for Unpaid Rent be set aside?

Background and Evidence

The Tenant stated that:

- The tenancy began over ten years ago;
- He is currently required to pay monthly rent of \$365.00 by the first day of the month;
- On September 16, 2021 he found a Ten Day Notice to End Tenancy for Unpaid Rent or Utilities posted on his door, which was dated September 14, 2021;
- The Ten Day Notice to End Tenancy for Unpaid Rent or Utilities declared that he had not paid rent of \$730.00 that was due by September 01, 2021; and
- He did not owe any rent on September 14, 2021.

Analysis

Section 46 of the Act permits a landlord to end a tenancy by serving a Ten Day Notice to End Tenancy for Unpaid Rent or Utilities if rent is not paid when it is due.

On the basis of the undisputed evidence, I find that on September 16, 2021 the Tenant received the Ten Day Notice to End Tenancy for Unpaid Rent or Utilities which is dated September 14, 2021.

On the basis of the testimony of the Tenant and in the absence of evidence to the contrary, I find that the Tenant did not owe any rent on September 14, 2021. As the Tenant did not owe any rent on September 14, 2021, I find that the Landlord did not have grounds to end this tenancy on September 14, 2021, pursuant to section 46 of the *Act*.

As the Landlord did not have grounds to end this tenancy on September 14, 2021, pursuant to section 46 of the *Act*, I grant the Tenant's application to set aside the Ten Day Notice to End Tenancy for Unpaid Rent or Utilities that is dated September 14, 2021.

I find that the Application for Dispute Resolution has merit and that the Tenant is entitled to recover the fee for filing this Application for Dispute Resolution.

Conclusion

The Ten Day Notice to End Tenancy for Unpaid Rent or Utilities dated September 14, 2021 is set aside and is of no force. This tenancy shall continue until it is ended in accordance with the *Act*.

As per the request of the Tenant at the hearing, I hereby authorize the Tenant to retain \$100.00 from one monthly rent payment in full compensation for the fee paid to file this Application for Dispute Resolution.

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: February 01, 2022

Residential Tenancy Branch