



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, FF

Introduction

This hearing convened to deal with the tenant's application for dispute resolution (application) seeking remedy under the Residential Tenancy Act (Act). The tenant applied for an order cancelling the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (Notice) issued by the landlord and to recover the cost of the filing fee.

The tenant attended the hearing and the landlords did not. As the landlords were not in attendance, the matter of service of the Application for Dispute Resolution, evidence, and Notice of Hearing (application package) was considered.

The tenant was affirmed.

The tenant testified that she delivered the application package to the landlord's office, and as they did not open the door, she attached the package to the door. The tenant said she lives 3 minutes from the landlord's office and saw that the package had been removed. The tenant said that she also had a friend who rode his motorcycle to the landlord's farm and he hand-delivered the package to landlord CL.

With this detailed explanation, I find the landlords were sufficiently served with the tenant's application package for purposes of the Act and the hearing proceeded in the absence of the landlords. The landlords did not file evidence for the hearing.

The tenant was provided the opportunity to present her evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all oral, written, and other evidence before me that met the requirements of the Residential Tenancy Branch (RTB) Rules of Procedure (Rules). However, not all details of the submissions are reproduced in this Decision. Words utilizing the singular shall also include the plural and vice versa where the context requires.

Preliminary and Procedural Matters-

The written tenancy agreement filed by the tenant lists two individuals with the same surname as the landlords. The Notice filed by the tenant shows the name of a corporate landlord, with the name beginning as the surname used by the landlords on the written tenancy agreement. As a result, I find it appropriate to include the individual names as landlords in this dispute.

Issue(s) to be Decided

Is the tenant entitled to cancellation of the Notice and recovery of the cost of the filing fee?

Background and Evidence

The written tenancy agreement filed by the tenant showed that the tenancy began on September 1, 2012, for a monthly rent of \$1,200, and a security deposit of \$600 being paid by the tenant.

The tenant was served a 10 Day Notice by the landlord. The tenant submitted that she received the Notice on June 1, 2022, the day she returned home and found the document on the floor. The Notice was dated May 25, 2022, for an effective move-out date of June 4, 2022.

On the Notice, the landlord wrote that the tenant owed utilities of \$3,349.21. The tenant submitted that under the written tenancy agreement, she did not owe utilities.

Analysis

In a case where a tenant has applied to cancel a Notice, Rule 7.18 of the Rules states the landlord has the burden of providing sufficient evidence to terminate the tenancy for the reason given on the Notice.

In this case, the Notice was issued pursuant to section 46(1) and I find that the tenant disputed the Notice within the timeframe required under the Act from the date she received the Notice.

In the absence of, or any evidence from, the landlords to support the reason listed on the notice to end tenancy, I find that it must be set aside.

I further find that the tenant provided sufficient evidence that she did not owe unpaid utility charges under the tenancy agreement.

As a result of the above, I therefore **ORDER** that the 10 Day Notice dated May 25 2022, is **cancelled**, with the effect that the tenancy continues until it may otherwise legally end under the Act.

As I have granted the tenant's application, I allow her recovery of the filing fee of \$100. I grant the tenant a one-time rent reduction of \$100 in satisfaction of the monetary award. The tenant should advise the landlord when making this deduction.

Conclusion

The tenant's application seeking cancellation of the landlord's 10 Day Notice and recovery of the filing fee is granted.

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*. Pursuant to section 77(3) of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: October 14, 2022

Residential Tenancy Branch