



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- cancellation of a 10 Day Notice to End Tenancy for unpaid rent (the 10 Day Notice), pursuant to section 46.

The hearing was conducted by conference call. The landlord did not attend this hearing, although I waited until 9:45 a.m. in order to enable the landlord to connect with this teleconference hearing scheduled for 9:30 a.m. The tenant attended the hearing and was given a full opportunity to provide affirmed testimony, to present evidence and to make submissions.

The tenant testified that on September 2, 2022, he personally served the landlord with a copy of the Application for Dispute Resolution and Notice of Hearing. The tenant testified that he delivered the package directly to the business address of the landlord and left it with the person at the desk.

Based on the above evidence, I am satisfied that the landlord was served with the Application for Dispute Resolution and Notice of Dispute Resolution Hearing pursuant to sections 89 & 90 of the Act. The hearing proceeded in the absence of the landlord.

Issues

Should the landlord's 10 Day Notice be cancelled? If not, is the landlord entitled to an order of possession?

Background and Evidence

The tenancy began approximately 10 years ago.

The 10 Day Notice subject to this dispute is dated August 8, 2022. The tenant's application to cancel the 10 Day Notice was filed on August 12, 2022 within the time period permitted under the Act.

Analysis

Section 46 of the Act requires that upon receipt of a Notice to End Tenancy for non-payment of rent the tenant must, within five days, either pay the full amount of the arrears indicated on the Notice or dispute the Notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch. If the tenant makes such an application, the onus shifts to the landlord to justify, on a balance of probabilities, the reasons set out in the 10 Day Notice.

The landlord did not participate in the hearing and as such has failed to provide any evidence to justify grounds to issue the 10 Day Notice. Accordingly, the 10 Day Notice dated August 8, 2022, is hereby cancelled and of no force or effect.

Conclusion

I allow the tenant's application to cancel the landlord's 10 Day Notice dated August 8, 2022, which is hereby cancelled and of no force or effect. This tenancy continues until it is ended in accordance with 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: October 28, 2022

Residential Tenancy Branch