



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes CNR

Introduction

The Tenant seeks an order pursuant to s. 46 of the *Residential Tenancy Act* (the “Act”) cancelling a 10-Day Notice to End Tenancy signed on March 6, 2023 (the “10-Day Notice”).

S.S. as the applicant Tenant and was joined by her spouse A.S.. The Landlord did not attend the hearing, nor did someone attend on their behalf.

The parties affirmed to tell the truth during the hearing. I advised of Rule 6.11 of the Rules of Procedure, in which the participants are prohibited from recording the hearing. I further advised that the hearing was recorded automatically by the Residential Tenancy Branch.

The Tenant advised that the Landlord was served with her application materials via registered mail sent on March 16, 2023. I was provided with a copy of the registered mail tracking receipt as proof of service. I find that the Tenant served her application materials in accordance with s. 89 of the *Act*. Pursuant to s. 90 of the *Act*, I deem that the Landlord received the Tenant’s application materials on March 21, 2023.

Pursuant to Rule 7.1 of the Rules of Procedure, the hearing began as scheduled in the Notice of Dispute Resolution. As the Landlord did not attend the hearing, it was conducted in their absence as permitted by Rule 7.3 of the Rules of Procedure and concluded at 9:40 AM without participation of the Landlord.

Cancellation of the 10-Day Notice

Rule 6.6 of the Rules of Procedure specifies that though an applicant generally bears the burden of proving their claim, there are circumstances, such as when a tenant files to dispute a notice to end tenancy, that the onus of proof rests with the respondent landlord.

In this instance, the Landlord bore the burden of proving the 10-Day Notice was issued in compliance with the *Act*. By failing to attend the hearing to provide evidence, I find that the Landlord has failed to prove the 10-Day Notice was properly issued. Accordingly, I grant the Tenant's application and hereby cancel the 10-Day Notice, which is of no force or effect.

Conclusion

I grant the Tenant's application and cancel the 10-Day Notice. The tenancy shall continue 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: April 14, 2023

Residential Tenancy Branch