



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes **CNR, MNDCT, RP, OLC**

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant filed under the *Residential Tenancy Act* (the “Act”) to cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the “Notice”) issued on April 6, 2023, for compensation for monetary loss or other money owed.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

Rule 2.3 of the Residential Tenancy Branch Rules of Procedure authorizes me to dismiss unrelated disputes contained in a single application. In these circumstances the tenant indicated several matters of dispute on the Application for Dispute Resolution, the most urgent of which is the application to set aside the Notice. I find that not all the claims on this Application for Dispute Resolution are sufficiently related to be determined during these proceedings. I will, therefore, only consider the tenant's request to set aside the Notice at these proceedings. The balance of the tenant's application is dismissed, with leave to reapply.

Issue(s) to be Decided

Should the Notice be cancelled?

Background and Evidence

The tenancy began on February 15, 2019. Rent in the amount of \$1,963.00 was payable on the first of each month. A security deposit of \$950.00 and a pet damage deposit of \$950.00 were paid by the tenant

The tenant testified that they received the Notice on April 7, 2023, and they paid the outstanding rent as soon as they received their child tax credit on April 20, 2023. The tenant stated that their rent was always sent directly to the landlord from their disability cheque, and it only became an issue when they had to have the landlord verify that they were still living in the rental unit.

The tenant testified that the property manager refused to complete the required form and because of this they lost their shelter portion of their disability cheque. The tenant stated they did the only thing they could do to pay the rent, which was to wait for until they received their child tax credit. The tenant stated that they would not have been in this position had the property manager completed the paperwork when requested to do so.

The landlord testified that the previous manager was fired in February 2023. The landlord stated that the shelter information form for the tenant was completed on April 1, 2023; however, it was the tenant's responsibility to ensure rent was paid on time and they issued the Notice on April 6, 2023.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

In this case, I find it appropriate to cancel the Notice, pursuant to section 62(2) of the Act. While I accept it is the tenant's responsibility to pay the rent when it is due under the term of their tenancy agreement and section 26 of the Act. However, I find the landlord's actions in this instance were egregious.

The tenant needed a simple form to be completed by the landlord for confirmation of their housing and this was refused to be completed by the landlord or their property manager and they neglected to complete form. The tenant's housing subsidy was lost due to their actions. The tenant made every effort to pay the rent by using their child tax credit. I find this had to have significant impact on the tenant and their family.

While I accept the landlord completed the form for the tenant on April 1, 2023; however, it is unreasonable for the landlord to be issuing the Notice six days later as they should have recognized that this problem was created by the actions of their property manager's behaviour, not the tenant. I find it is unreasonable for the landlord to expect that this problem would be rectified in six days. To allow landlords to end a tenancy

because of their own actions of not completing the required subsidy housing verification form when requested, would be highly unfair as the tenant would lose their housing by the landlord's actions, and this may even be a human rights issue.

I find to allow such egregious behaviour to be permitted would only allow landlords to engineer a scenario to end tenancies for people who rely upon subsidy for housing.

Based on the above, I grant the tenant's application and cancel the Notice. However, as the tenant's subsidy has now been approved, the tenant is to ensure rent is paid to the landlord on time commencing June 1, 2023.

Any late payments during this time will not be considered repeated late payment of rent as this was caused by the action of the landlord. This means the landlord cannot issue a One Month Notice to End Tenancy for Cause using late payment of rent for this time period.

Further, the tenant can provide a copy of my decision for any future hearing to show the egregious behaviour of the landlord or their agent, because if the landlord's action caused the tenant that they could not pay for items, such as utilities. The landlord's actions must be considered as they have an obligation under section 7(2) of the Act to do whatever is reasonable to minimize the loss, such as completing the tenant's form so the tenant could receive their housing disability cheque.

Conclusion

The tenant's application to cancel the Notice is granted. The balance of the tenant's application is dismissed with leave to reapply.

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: May 26, 2023

Residential Tenancy Branch