



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes CNR

Introduction

Under section 58 of the Residential Tenancy Act (the “Act”), this hearing dealt with the tenant’s April 21, 2023, application to the Residential Tenancy Branch for an order cancelling a 10 Day Notice to End Tenancy for Unpaid Rent (the “Notice”) pursuant to section 46(4)(b) of the Act.

Issues

1. Is the tenant entitled to an order cancelling the Notice?
2. If not, is the landlord entitled to an order of possession?

Background and Evidence

In reaching this decision, I have considered all relevant evidence that complied with the *Rules of Procedure*. Only the necessary oral and documentary evidence that helped resolve the issues of the dispute and explain the decision is included below.

The tenancy began August 1, 2021. Rent is \$2,800.00 due on the 20th day of the month. The landlord currently retains a \$1,375.00 security deposit.

The landlord served the Notice on April 17, 2023, by delivering to the tenant in person, who was there to receive it. Page two of the Notice indicates that the tenant did not pay rent in the amount of \$2,800.00 that was due on March 20, 2023.

The landlord affirmed that, when the Notice was served on the tenant on April 17, 2023, the tenant did not have any rental arrears at that point in time as the tenant had paid the rent prior to the landlord issuing the Notice.

Analysis

Under section 46(1) of the Act, landlords may end a tenancy with a *10 Day Notice to End Tenancy for Unpaid Rent* on any day rent remains unpaid after the day rent is due. The landlord's evidence was that when the Notice was served on the tenant on April 17, 2023, the tenant did not have any rental arrears at that point in time as the tenant had paid the rent prior to the landlord serving the Notice. As there was no unpaid rent when the Notice was served on the tenant, I find that the Notice was not given for a valid reason and the tenant's application to cancel the Notice is granted. The tenancy shall continue until it is ended in accordance with the Act.

Conclusion

The application is granted. 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: June 16, 2023

Residential Tenancy Branch