



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes CNR

Introduction

This hearing was scheduled to convene at 9:30 a.m. on February 2, 2024 concerning an application made by the tenant seeking an order cancelling a notice to end the tenancy for unpaid rent or utilities.

The tenant and a witness for the tenant attended the hearing and each gave affirmed testimony. However, the line remained open while the telephone system was monitored for 10 minutes prior to hearing any testimony and no one for the landlord joined the call.

The tenant advised that the landlord was served with the Notice of Dispute Resolution Proceeding and all of the tenant's evidence by registered mail on January 9, 2024 and has provided a Proof of Service document and a Canada Post Registered Domestic Customer Receipt. The tenant testified that the documents were served at the address for service of the landlord as indicated on a notice to end the tenancy.

I am satisfied that the landlord has been served in accordance with the *Residential Tenancy Act*.

All evidence of the tenant has been reviewed and is considered in this Decision.

Issue(s) to be Decided

Should the 10 Day Notice to End Tenancy For Unpaid Rent or Utilities dated January 4, 2024 be cancelled?

Background and Evidence

The tenant testified that this tenancy began over 10 years ago, and the tenant still resides in the rental unit. The landlord named in this dispute took over as landlord in June, 2022. Rent in the amount of \$1,350.00 is payable on the 15th day of each month

and there are no rental arrears. At the outset of the tenancy the tenant paid the landlord at that time a security deposit of \$550.00 or \$575.00, which is held in trust by the current landlord. The rental unit is a single family dwelling; the landlord does not reside on the rental property.

The tenant further testified that on January 4, 2024 the tenant was personally served with a 10 Day Notice to End Tenancy For Unpaid Rent or Utilities (the Notice). A copy has been provided for this hearing and it is dated January 4, 2024 and contains an effective date of vacancy of January 14, 2024 for unpaid rent in the amount of \$6,800.00 that was due on January 1, 2024. The landlord increased the rent by 25%, and the tenant didn't believe that was fair. No Notice of Rent Increase was served by the landlord.

The tenant's witness testified that she is a friend of the tenant and advised the tenant that the landlord cannot increase rent by that amount and that the tenant had been overpaying. The witness sent 4 emails to the landlord, copies of which have been provided for this hearing, advising the landlord that the rent could not increase by that amount and sent a copy of a link to the Residential Tenancy Branch website. The witness also sent a spreadsheet showing the amounts that the tenant had paid and the amount of overpayments. The emails were sent to the landlord at the email address that the tenant pays rent to, but never received a response from the landlord.

Analysis

Where a tenant disputes a notice to end a tenancy given by a landlord, the onus is on the landlord to establish that it was given in accordance with the *Residential Tenancy Act*. In this case, having found that the landlord has been served with notice of this hearing, I find that the landlord has failed to establish that rent is or was owed to the landlord at the time the Notice to end the tenancy was served.

A landlord may not increase rent except in accordance with the law, which requires a Notice of Rent Increase in the approved form to be served on the tenant no less than 3 months before the increase takes effect, and must be in the percentage amount allowed by the legislation.

I have reviewed the spreadsheet provided by the tenant and the tenant's witness, and I am satisfied that the tenant is not in arrears of rent and the Notice to end the tenancy should be cancelled, and I so order.

Conclusion

For the reasons set out above, the 10 Day Notice to End Tenancy For Unpaid Rent or Utilities dated January 4, 2024 is hereby cancelled and the tenancy continues until it has ended in accordance with the law.

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: February 02, 2024

Residential Tenancy Branch