



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes CNC, CNR, FF

Introduction

This hearing was scheduled to deal with the tenant's application to cancel a Notice to End Tenancy for unpaid rent, to cancel a Notice to End Tenancy for cause, and to recover the filing fee from the landlords. The landlords did not appear at the hearing. The tenant testified that he personally served the female landlord with the hearing package and posted the male landlord's hearing package on the door of the landlord's service address as indicated on the *10 Day Notice to End Tenancy for Unpaid Rent*. Based on the service requirements of section 89 of the Act, I am satisfied that the tenant sufficiently served the female landlord with notification of this hearing and I proceeded to hear from the tenant.

The tenant only submitted documentary evidence related to a *10 Day Notice to End Tenancy for Unpaid Rent*. The tenant testified that he was recently served with a *1 Month Notice to End Tenancy for Cause*; however, he has not disputed the 1 Month Notice yet. Therefore, I find that this application only pertains to the *10 Day Notice to End Tenancy for Unpaid Rent* and my decision only pertains to the tenant's request to cancel the 10 Day Notice.

Issues(s) to be Decided

1. Is there a basis to set aside the *10 Day Notice to End Tenancy for Unpaid Rent*?
2. Award of the filing fee.

Background and Evidence

The tenant testified that on June 5, 2009 he received a *10 Day notice to End Tenancy for Unpaid Rent* (the Notice) from the person identified as the male landlord. The Notice identifies two landlords; however, the tenant testified that the person identified as the male landlord did not purchase the property until June 15, 2009. The Notice indicates that \$450.00 in rent was outstanding as of June 1, 2009 and \$5,400.00 in back rent for 1 year. The Notice was signed by both landlords on May 1, 2009. The tenant testified that he had an agreement with the female landlord with respect to the rental arrears; however, upon receiving the Notice, the tenant paid all of the outstanding rent the next day.



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Upon enquiry, the tenant testified that he filed this dispute upon the advice of a lawyer even though the tenant paid the outstanding rent within five days of receiving the Notice.

Analysis

Section 44 provides that a landlord may end a tenancy if rent is unpaid after the day it is due by giving a Notice to End Tenancy on the approved form and in a manner that complies with the Act. Upon receiving a 10 Day Notice, a tenant may pay the outstanding rent or dispute the Notice by making an application for dispute resolution. If a tenant pays all of the outstanding rent within five days of receiving the Notice, the Notice is automatically cancelled and there is no need to dispute it.

Based on the evidence before me, I find that the 10 Day Notice has already been cancelled upon full payment of the amount indicated on the Notice as it was paid within five days of the tenant receiving the Notice.

As this dispute related to the 10 Day Notice and the Notice was automatically cancelled there was no need to dispute the Notice in order for the tenancy to continue and the tenant's decision to file a dispute is a decision for which he will bear the cost. Accordingly, I do not award the filing fee to the tenant.

Conclusion

The 10 Day Notice was cancelled upon payment of the rental arrears by the tenant within five days of receiving the Notice. This tenancy continues until such time it ends under 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 23, 2009.

Dispute Resolution Officer