

DECISION

Dispute Codes _CNR, O

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenants to cancel a Notice to End Tenancy for unpaid rent.

Service of the hearing documents, by the tenant to the landlord, was done in accordance with section 89 of the *Act*, and was given in person to the landlord's agent on March 17, 2010 at 3.00 p.m. The tenants' wife witnessed the documents being served to the landlords agent and provided a sworn statement that service took place as declared.

The tenants appeared, gave affirmed testimony, were provided the opportunity to present their evidence orally, in writing, and in documentary form. There was no appearance for the landlord, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

Issues(s) to be Decided

- Has the tenant provided sufficient evidence that the Notice to End Tenancy can be cancelled?

Background and Evidence

This tenancy started on February 01, 2010. This is a month to month tenancy and the tenants pay a monthly rent of \$400.00 which is due on the first of each month.

The tenant received a 10 Day Notice to End Tenancy for unpaid rent on March 12, 2010. The Notice indicates that the outstanding rent is \$975.00 due on March 01, 2010. The effective date of the Notice is March 22, 2010. The tenants have provided a rent receipt dated March 04, 2010 that shows that the tenants paid their rent of \$400.00 for March on this date. The landlords' agent marked this receipt for use of occupancy only and the tenants state that they have no idea why the landlords' agent did this as the rent was paid before the 10 Day Notice was issued.

The tenants have provided a copy of their rental agreement which shows that rent for their unit is \$400.00 per month. The tenant's testify that they do not owe rent from a previous month.

Analysis

In the absence of any evidence from the landlord who did not attend this hearing or provide any documentary evidence, despite having opportunity to do so; I find the landlord has not provided any evidence to support the reason why he issued the tenants with a 10 Day Notice to End Tenancy for unpaid rent as the rent was paid on March 04, 2010 eight days before the Notice was issued. Therefore, I uphold the tenant's application to cancel the 10 Day Notice for unpaid rent.

Conclusion

The tenant's application is allowed. The 10 Day Notice to End Tenancy for unpaid rent dated, March 12, 2010 is cancelled and the tenancy will continue.

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 30, 2010.

Dispute Resolution Officer