



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, FF

Introduction

This matter proceeded by way of a conference call hearing, pursuant to the *Residential Tenancy Act* (the "Act"), and dealt with an Application for Dispute Resolution by the Tenant requesting that a 10 Day Notice to End Tenancy issued on March 12, 2012 be cancelled.

Both parties appeared, gave testimony and were provided the opportunity to make relevant submissions, in writing and orally pursuant to the Rules of Procedure, and to respond to the submissions of the other party.

Issue(s) to be Decided

Should the 10 Day Notice to End Tenancy issued by the Landlord on March 12, 2012 be cancelled or not?

Background and Evidence

The parties agree that they have a month to month tenancy which commenced on October 01, 2008. The parties agree that the rent is \$1,700.00 per month. The parties agree that the tenancy agreement signed at the start of the tenancy stated that rent is due on the first of each month. Neither party provided a copy of the tenancy agreement into evidence.

The Tenant stated that the Landlord has been flexible about the date rent is paid throughout the tenancy and has accepted rent from her on dates other than the first of the month. The Tenant stated that she does not have a copy of the written tenancy agreement that she signed at the start of the tenancy. The Tenant confirmed that she received a 10 Day Notice for unpaid rent and utilities from the Landlord dated March 12, 2012. The Tenant stated that she was away for a few days and that she discovered the Notice posted on the door of the rental unit on March 15, 2012. The Tenant submitted a copy of the 10 Day Notice into evidence. The Tenant filed an Application for dispute resolution on March 20, 2012. The Tenant stated that the Landlord had refused her rent payment of \$800.00 as she was deducting \$2,600.00 from the rent due to a hearing decision of February 14, 2012 granting her this amount in a monetary order. The Tenant submitted a copy of the hearing decision of February 14, 2012 into evidence. The Tenant stated that she provided the rent payment to the Landlord by registered mail and he accepted it. The Tenant stated that as the rent was paid in full this was no

longer an issue. The Tenant stated that the tenancy agreement requires her to pay all of the bills for the rental unit. The Tenant stated that the bills are in her name and the Landlord has not provided her any written demand or notification about any bills she owes the Landlord for. The Tenant denies that she owes the Landlord for any bills.

The Landlord stated that they have not made an application for dispute resolution with regards to the March 12, 2012 Notice. The Landlord stated that they would like the tenancy to end. The Landlord confirmed that the unpaid rent for February and March 2012 had been paid in full by the Tenant and was no longer an issue. The Landlord stated that the Tenant paid the amount of \$800.00 and deducted \$2,600.00 from the rent for February and March 2012 as she received a hearing decision of February 14, 2012 which granted the Tenant a monetary order for this amount. The Landlord stated that the only issue remaining in regards to the Notice of March 12, 2012 are unpaid utilities. The Landlord stated that the City has contacted him about the Tenant's non-payment of the water bill for January 01, 2011 to December 31, 2011 and they will be charging the Landlord for the amount of this unpaid bill as he is the owner of the property. The Landlord did not submit any documents into evidence. The Landlord stated that he has issued a separate Notice to the Tenant due to repeated late payment of rent and that these are to be the subject of another hearing.

The Tenant is requesting that her tenancy continue and that the 10 Day Notice issued on March 12, 2012 by the Landlord be cancelled.

Analysis

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

I find that the Landlord served the 10 Day Notice by posting it at the rental unit on March 12, 2012. A Notice served in this manner is deemed served within three days. As a result the Tenant had five days from March 15, 2012 to file for dispute resolution. The Tenant confirmed that she had received the Notice by March 15, 2012. The Tenant filed her application for dispute resolution on March 20, 2012. I find that the Tenant filed her Application within the five days required by the Act after the deemed service date of the Notice.

The Notice of March 12, 2012 states that the Tenant owes \$1,700.00 in rent for February 2012 and \$1,700.00 in rent for March 2012. The Notice also states that the Tenant owes \$1,500.00 for utilities following a written demand on December 31, 2011.

I find that the Landlord has failed to state the Tenant's last name on the Notice and only put the Tenant's first name on the Notice. The Landlord confirmed that the unpaid rent for February and March 2012 had been paid in full by the Tenant and was no longer an issue. The Landlord stated that the Tenant paid the amount of \$800.00 and deducted

\$2,600.00 from the rent for February and March 2012 as there is a hearing decision of February 14, 2012 which granted the Tenant a monetary order for this amount. The Landlord stated that the only issue remaining in regards to the Notice, of March 12, 2012, is unpaid utilities. I find the Landlord has failed to provide sufficient evidence that the Tenant owes unpaid utilities as stated on the Notice.

I find that it is appropriate to cancel the 10 Day Notice issued by the Landlord on March 12, 2012.

As the Tenant has been successful in her Application, I order the Tenant to recover the \$50.00 filing fee for this proceeding by deducting it from her next rent payment due.

Conclusion

I have granted the Tenant's request to cancel the 10 Day Notice to End Tenancy issued on March 12, 2012.

I have granted the Tenant's request to recover the \$50.00 cost of the Application fee, and ordered her to deduct it from her next month's rent.

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 11, 2012.

Residential Tenancy Branch