



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes DRI, CNR, FF

Introduction

This hearing dealt with a tenant's application to cancel a 10 Day Notice to End Tenancy for Unpaid Rent and to dispute a rent increase. The landlord did not appear at the hearing. The tenant testified that he personally delivered the hearing documents to the on-site property manager on August 29, 2012. Based upon the tenant's testimony I accepted that the landlord has been sufficiently served and I proceeded to hear from the tenant without the landlord present.

Issue(s) to be Decided

1. Should the Notice to End Tenancy be upheld or cancelled?
2. Was the tenant served with a valid Notice of Rent Increase?
3. What is the tenant's monthly rent?

Background and Evidence

The tenant has been paying rent of \$735.00 on the 1st day of every month. On August 2, 2012 the tenant found a letter and a copy of his account statement dated August 1, 2012 under his door. The statement indicated the tenant's rent had increased to \$765.00 starting June 1, 2012. The tenant immediately contacted the landlord via email to advise the landlord he had not received any notification that his rent had increased and asked the landlord when and how notification was sent to him. The building manager responded, via email, that the landlord's other office had sent the rent increase notifications out. The tenant then emailed the property manager at the landlord's other office to ask when and how the rent increase notification was sent to him. The landlord did not respond.

In mid-August the tenant received another copy of his account statement along with a request to pay rental arrears of \$90.00 under his door. The tenant did not pay the \$90.00 requested of him.

On August 23, 2012 the landlord personally served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent (the Notice) indicating \$90.00 was outstanding as of August 1, 2012. Also on this date, the landlord also gave the tenant the first page of a two-page Notice of Rent Increase dated February 23, 2012.

During the hearing the tenant confirmed that he did not receive the second page of the Notice of Rent Increase or the "Information for Landlords and Tenants" that appears on Notice of Rent Increase that are in the approved form.

As documentary evidence the tenant provided copies of: the 10 Day Notice; the letter dated August 1, 2012; the account statement dated August 1, 2012; emails to and from the landlord on August 2, 2012; the account statement dated August 15, 2012; and, the first page of a two-page Notice of Rent Increase.

Analysis

Where a Notice to End Tenancy comes under dispute, the landlord bears the burden to establish that the tenancy should end for the reason indicated on the Notice. Since the landlord did not appear at the hearing I find the landlord did not meet this burden and I cancel the 10 Day Notice with the effect that this tenancy continues.

Where a landlord intends to increase a tenant's rent the landlord must do so in a manner that complies with the Act and the Residential Tenancy Regulations. To increase rent the landlord must serve the tenant with a Notice of Rent Increase **in the approved form** at least three months before the increase is to take effect. The burden to prove the Notice of Rent Increase was served is upon the landlord.

In this case, I was provided undisputed testimony and email communication from the tenant to the landlord indicating the Notice of Rent Increase dated February 23, 2012 had not been served upon him before the landlord increased the tenant's rent to \$765.00 on June 1, 2012. The landlord did not appear at the hearing or otherwise provide any evidence as to when or how the Notice of Rent Increase was served upon the tenant. Therefore, I find the landlord has not met the burden to show the tenant was served with an otherwise valid Notice of Rent Increase to increase the rent June 1, 2012.

In light of the above, I ORDER that the tenant's rent remains at \$735.00 per month until such time the tenant's rent is legally increased and I ORDER the landlord to adjust the tenant's account accordingly.

With respect to receipt of the first page of the Notice of Rent Increase on August 23, 2012 I find that serving only one page of a two-page notice is non-compliant with the requirements of the Act and service of that one page shall not increase the tenant's rent.

It is important to note that in order for the landlord to increase the tenant's rent the landlord must serve a Notice of Rent Increase in the approved form. The approved form contains important information for both parties that the tenant is entitled to receive.

The landlord remains at liberty to issue another Notice of Rent Increase that complies with the requirements of the Act and properly serve it upon the tenant in order to increase the rent in the future.

As the tenant was successful with this application I award the \$50.00 filing fee to the tenant. The tenant is authorized to deduct \$50.00 from his next month's rent in satisfaction of this award.

Conclusion

The 10 Day Notice has been cancelled and the tenancy shall continue. The tenant's monthly rent shall remain at \$735.00 until such time the rent is legally increased and the landlord is ordered to adjust the tenant's account accordingly. The first page of the Notice of Rent Increase served to the tenant on August 23, 2012 will not increase the tenant's rent. The tenant is awarded the filing fee and is authorized to deduct \$50.00 from a subsequent 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: September 27, 2012.

Residential Tenancy Branch