



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR

Introduction

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

I find that the 10 day Notice to End Tenancy was sufficiently served on the Tenant by posting on January 20, 2015. Further I find that the Application for Dispute Resolution/Notice of Hearing was personally served on January 27, 2015. With respect to each of the applicant's claims I find as follows:

Issue(s) to be Decided

The issue to be decided is whether the tenant is entitled to an order cancelling the Notice to End Tenancy dated January 20, 2015?

Background and Evidence

The tenancy began in March 2005. The present rent is \$797 per month payable in advance on the first day of each month. The tenant paid a security deposit of \$350 to the previous owners at the start of the tenancy.

The representatives who appeared on behalf of the landlord testified the respondent transferred the rental property to the corporation they represent on January 22, 2015.

The tenant testified that in 2013 he had an agreement with the previous landlord to make payments of \$40 per month to pay off the arrears. He produced documentation showing that he had paid an additional \$40 for at least some of the months. The tenant further testified the agreement provided that if he made the payments as agreed that in April 2014 the previous landlord would release him from any further obligation to pay the rent. The representatives of the landlord dispute this.

Analysis

I determined the appropriate determination in this case was to cancel the 10 day Notice to End Tenancy and grant the landlord liberty to re-apply for the following reasons.

- Neither party has produced sufficient evidence on which an arbitrator can make a rational decision on the merits. The representatives of the landlord failed to produce evidence they are authorized to appear on behalf of the respondent. Further, they failed to produce any documents to support their claim that the previous owner had assigned to them the right to pursue this debt.
- The landlord alleged based on the documents on file that there was no agreement to release the tenant as alleged by the tenant. However, the landlord failed to produce the representative of the respondent who would give evidence disputing the tenant's evidence.
- The tenant testified he has receipts that support his allegation that he has paid the extra \$40 per month. However the tenant failed to produce those receipts.

As a result I determined that it was appropriate to order that the Notice to End Tenancy dated January 20, 2015 be cancelled. The tenancy shall continue with the rights and obligations of the parties remaining unchanged.

The parties are encouraged to negotiate a resolution of this matter. If the parties are unable to agree the landlord has the right to serve a new 10 day Notice to End Tenancy with respect to the same debt. The arbitrator who is assigned this case will be in a position to consider all of the evidence and determine whether the purchaser of the rental property has the legal right to make a claim for non-payment of rent that is allegedly owed to a previous owner and whether the previous owner agreed to forgive the debt.

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 11, 2015

Residential Tenancy Branch

