



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute codes MT CNR

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- more time to make an application to cancel the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 66; and
- cancellation of a 10 Day Notice to End Tenancy for unpaid rent, pursuant to section 46 (the 10 Day Notice);

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another. The tenant's advocate, N.M (the advocate) stated that he would be representing the interests of the tenant in this matter. Landlord B.S. stated that both he and Landlord S.S. would be representing the interests of the landlord in this matter but that Landlord B.S. (the landlord) would be the primary speaker.

The landlord acknowledged receipt of the Tenant's Application for Dispute Resolution (the Application) and evidentiary package sent by Canada Post Registered Mail on August 03, 2017. Pursuant to section 88 and 89 of the *Act*, I find the landlord has been duly served with these documents.

The advocate confirmed that the tenant received the 10 Day Notice on July 10, 2017. In accordance with section 88 of the *Act*, I find the tenant was duly served with the 10 Day Notice.

The landlord confirmed that they did not submit any evidence.

Issues(s) to be Decided

Is the tenant entitled to more time to to cancel the landlord's 10 Day Notice?

Should the landlord's 10 Day Notice be cancelled? If not, is the landlord entitled to an order of possession?

Background and Evidence

The landlord testified that this tenancy began on December 01, 2016 with a monthly rent of \$833.00 payable on the first day of each month. The landlord testified that a security deposit of \$402.50 is currently being retained in trust.

The advocate entered into written evidence the 10 Day Notice, dated July 10, 2017 for \$735.00 in unpaid rent that was due on July 01, 2017, with a stated effective date of July 20, 2017. The advocate testified that the rent owing on the 10 Day Notice is actually for May 2017. The landlord confirmed this to be true.

The advocate testified that a second 10 Day Notice was issued by the landlord on August 16, 2017, for the May 2017 rent that continues to be outstanding. The advocate testified that a second Tenant's Application for Dispute Resolution was submitted to the Residential Tenancy Branch (RTB) and that a hearing is scheduled for October 11, 2017, to dispute the 10 Day Notice of August 16, 2017.

Analysis

Pursuant to section 63 of the *Act*, the Arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order. During this hearing, the parties reached an agreement to settle their dispute.

Both parties agreed to the following terms of a final and binding resolution of the tenant's application and the issues in dispute arising out of this tenancy at this time and that they did so of their own free volition and without any element of coercion:

1. The tenant agreed to pay \$660.00 in outstanding rent for May 2017 by the end of the business day on September 08, 2017, which the landlord agreed to accept.
2. The landlord agreed to withdraw the 10 Day Notice dated July 10, 2017
3. Both parties agreed that these particulars comprise the full settlement of all aspects of the tenant's current application arising out of the 10 Day Notice issued on July 10, 2017.

Conclusion

The 10 Day Notice of July 10, 2017 is withdrawn and is of no force or effect.

This tenancy continues until it is ended in accordance with the *Act*.

In order to implement the above settlement reached between the parties, I issue a monetary Order in the landlord's favour in the amount of \$660.00. I deliver this Order to the landlord in support of the above agreement for use **only** in the event that the tenant does not abide by Clause 1 of the above settlement. The landlord is provided with these Orders in the above terms and the tenant must be served with a copy of these Orders as soon as possible after a failure to comply with the terms of the above settlement agreement. Should the tenant fail to comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders of that Court.

Should the tenant fail to abide by the terms of Clause 1 of the above-noted settlement agreement, the landlord has the right to request an Order of Possession at the upcoming hearing on October 11, 2017, on the basis of unpaid rent identified as owing in the 10 Day Notice of August 16, 2017, to be determined at that hearing at the arbitrator's discretion.

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 06, 2017

Residential Tenancy Branch