



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes:

CNL

Introduction

This hearing was held in response to the tenant's Application for Dispute Resolution in which the tenant has applied to cancel a 2 Month Notice to End Tenancy for Landlord's Use and return of the filing fee costs.

Both parties were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained, evidence was reviewed and the parties were provided with an opportunity to ask questions about the hearing process. They were provided with the opportunity to submit documentary evidence prior to this hearing, all of which has been reviewed, to present affirmed oral testimony and to make submissions during the hearing.

Preliminary Matter

The tenant submitted 5 pages of late evidence which were not served to the landlord; therefore, that evidence was not referenced.

Issue(s) to be Decided

Should the 2 Month Notice to End Tenancy for Landlord's Use issued on November 30, 2009 be cancelled?

Background and Evidence

During the hearing the parties agreed to the following facts:

- On November 30, 2009 the landlord served the tenant with a letter terminating the tenancy effective January 31, 2010;
- On December 20, 2009 the landlord served the tenant with a Notice to End Tenancy issued on a 2006 Residential Tenancy Branch (RTB) form;

- That the Notice served to the tenant on December 20, 2009 was back-dated by the landlord to indicate an issue date of November 30, 2009.

Analysis

A notice to end tenancy must be signed and dated by the landlord. The landlord has provided the tenant with notice to end tenancy which includes the necessary content, as provided by section 52 of the Act. However, the landlord has confirmed that he did back-date the Notice issue date and that the tenant was served with this Notice on December 20, 2009.

Therefore, as provided by section 62(3) of the Act, which allows a dispute resolution to make any Order necessary to give effect to the rights and obligations under the Act, I find that the Notice to End Tenancy for Landlord's Use dated November 30, 2009 is of no force or effect. I also base this decision on section 68 of the Act; as I find that the Notice issue date will not be amended. This tenancy will continue.

The landlord indicated that he plans on issuing another Notice on the most current RTB form. The tenant and landlord were informed of the process for dispute and the requirement to pay rent during any period of dispute.

Conclusion

The Notice to End Tenancy for Landlord's Use issued on November 30, 2009 is of no force or effect. This 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: February 11, 2010.

Dispute Resolution Officer