



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, FF

Introduction

This matter dealt with an application by the Tenant to cancel a One Month Notice to End Tenancy for Cause dated August 31, 2011 and to recover the filing fee for this proceeding.

Issue(s) to be Decided

1. Does the Landlord have grounds to end the tenancy?

Background and Evidence

This month to month tenancy started on May 1, 2011. Rent is \$575.00 payable in advance on the 1st day of each month. The Tenant's rent includes the exclusive use of a bedroom and shared use of other common areas in a house (including a kitchen) with 5 other tenants. On August 31, 2011, the Landlord served the Tenant with a Residential Tenancy Branch form from 2001 called, "Notice to End a Residential Tenancy" by putting it under the Tenant's bedroom door.

Analysis

Section 47(1) of the Act says that a Landlord may end a tenancy by giving a notice to end the tenancy if one of the grounds set out under that section of the Act applies. Section 47(3) of the Act says that a Notice to End Tenancy must comply with s. 52 of the Act. Section 52 of the Act says that in order to be effective a Notice to End Tenancy when given by a Landlord must (among other things) be on the approved form.

I find that the Notice to End Tenancy dated August 31, 2011 that was served on the Tenant was not on an approved form but rather on a form from 2001 that has not been in use for many years because it no longer refers to the correct sections of the Act that was brought into force in 2002 and amended thereafter. Furthermore, the old form used by the Landlord refers to addresses for Residential Tenancy Branch offices that are no longer in existence. Consequently, I find that the One Month Notice to End Tenancy for

Cause dated August 31, 2011 is not on an approved form, is therefore of no force and effect and it is cancelled.

Furthermore, s. 88 of the Act lists the ways in which a document (such as a Notice to End Tenancy) may be served; it does not include the placement of documents *under* a door because this is not an obvious place where documents will be seen especially if they inadvertently are slipped under a rug. Consequently, s. 88 requires documents to be *posted on* a door where they are obvious.

As the Tenant has been successful in this matter, she is entitled pursuant to s. 72(1) of the Act to recover from the Landlord the \$50.00 filing fee she paid for this proceeding. I order pursuant to s. 72(2) of the Act that the Tenant may deduct this amount from her rent payment for October 2011 when it is due and payable.

Conclusion

The Tenant's application is granted; the One Month Notice to End Tenancy for Cause dated August 31, 2011 is cancelled. 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 29, 2011.

Residential Tenancy Branch