

DECISION

Dispute Codes CNC, FF

Introduction

This is an application filed by the Tenant to cancel a 1 month notice to end tenancy for cause and recovery of the filing fee.

The Tenant attended the hearing by conference call and gave testimony. The Landlord did not attend.

Issue(s) to be Decided

Is the Tenant entitled to an order cancelling a 1 month notice to end tenancy for cause?

Background and Evidence

The Tenant states that the 1 month notice to end tenancy for cause dated August 26, 2011 was received by her on August 26, 2011 and she filed her application for dispute resolution on August 30, 2011. The effective date shown on the notice is October 1, 2011. The Tenant received her notice of hearing package on September 2, 2011, where it was then sent by registered mail on the same date to the Landlord. The Tenant has provided the registered mail receipt from Canada Post in evidence for the delivery of the notice of hearing to the Landlord. The Landlord has not filed any evidence.

Analysis

Based upon the evidence and undisputed testimony of the Tenant, I am satisfied that the Landlord was properly served. The Landlord is deemed to have been served by registered mail 5 days after it was sent.

With no evidence to support the Landlord's 1 month notice to end tenancy for cause, I find that the Tenant has been successful in her application. The notice dated August 26, 2011 is set aside. The Tenant's application is granted.

Having being successful in her application, the Tenant is entitled to recovery of the \$50.00 filing fee. As the Tenancy is continuing, I order that the Tenant may withhold \$50.00 from the next months rent due for November 2011.

Conclusion

The Landlord's 1 month notice to end tenancy for cause is set aside.
The Tenant may withhold \$50.00 from the November 2011 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 28, 2011.

Residential Tenancy Branch