



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

CNC

Introduction

This hearing dealt with an application by the tenant to cancel a One Month Notice to End Tenancy For Cause (the Notice), dated October 01, 2011, with an automatically adjusted effective date of November 30, 2011 [Section 53 – Residential Tenancy Act (the Act)]. The tenant also requests the return of their filing fee of \$50.

I accept the tenant's evidence that despite the landlord having been served with the application for dispute resolution and notice of hearing by registered mail to the address provided for the landlord in the Notice to End , and in accordance with Section 89 of the Residential Tenancy Act (the Act) the landlord did not participate in the conference call hearing.

The tenant was given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the notice to end tenancy valid and issued for valid reasons?
Should the Notice to End dated October 01, 2010 be set aside?

Background and Evidence

In this type of application, the burden of proof rests with the landlord to provide compelling evidence that the Notice was validly issued for the stated reasons. The tenant disputes the Notice to End stating it makes no sense to them and that they do not know why the Notice to End was given to them. The landlord did not appear in the hearing to defend their reasons for why they issued the Notice to End for Cause.

Analysis

I have not been provided with evidence that the Notice to End was issued for valid reasons, and as a result I am unable to establish that the landlord issued the tenant a valid Notice to End. Therefore, **I Order** the Notice to End dated October 01, 2011 is **cancelled, and set aside**. The tenant is entitled to recover their filing fee of **\$50**.

Conclusion

The tenant's application is granted. The landlord's Notice to End is **set aside and is of no effect**. The tenancy continues.

I Order that the tenant may deduct **\$50** from a future rent, in satisfaction of their filing fee in the same amount.

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: November 01, 2011

Residential Tenancy Branch