



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL, FF

Introduction

This hearing dealt with the Tenant's Application for Dispute Resolution, seeking orders to cancel a two month Notice to End Tenancy for the Landlord's use of the rental unit and to recover the \$50.00 filing fee for the Application.

The Tenant appeared, gave affirmed testimony and was provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me.

The Tenant testified, and provided a receipt in evidence, that he had served the Landlord with the Application and Notice of this Hearing by registered mail, sent on January 19, 2012. Under the Act the Landlord is deemed served five days later with the registered mail. Despite this, the Landlord did not appear at the hearing. I find the Landlord has been served in accordance with the Act.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues(s) to be Decided

Is the Notice to End Tenancy valid or should it be cancelled?

Background and Evidence

On December 31, 2011, the Landlord issued the Tenant a two month Notice to End Tenancy, with an effective end date of February 1, 2012 (the "Notice").

The Landlord issued the Notice in accordance with section 49 of the Act, which allows the Landlord, or a close family member of the Landlord as defined in the Act, to move in and occupy the rental unit. Under the provisions related to this section of the Act, the

Landlord must also give the Tenant the equivalent of one month free rent when ending the tenancy in this manner.

The Landlord did not attend the hearing.

Analysis

Based on the above, the evidence and testimony, and on a balance of probabilities, I find that the Landlord has provided insufficient evidence to substantiate the Notice, and therefore, I order that the Notice is cancelled and of no force or effect.

I allow the Tenant to recover the filing fee for the Application by deducting **\$50.00** from one month of rent.

This decision is final and binding on the parties, except as provided under the Act, and 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: January 26, 2012.

Residential Tenancy Branch