



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNC, FF

Introduction

This hearing concerns the tenant's application for cancellation of a notice to end tenancy for cause / and recovery of the filing fee. The tenant participated in the hearing and gave affirmed testimony.

The tenant testified that he served the application for dispute resolution and the notice of hearing in person on the landlord, however, he could not recall the exact date when this was done. The landlord did not appear at the hearing.

Issue(s) to be Decided

Whether the tenant is entitled to the above under the Act, Regulation or tenancy agreement.

Background and Evidence

Documentation in the file is limited to a copy of the tenant's on-line application, in addition to a copy of the notice of a dispute resolution hearing.

The tenant testified that there is a written tenancy agreement for this tenancy which began approximately three years ago. He also testified that monthly rent is \$700.00 and that a security deposit of \$350.00 was collected.

The tenant further testified that the landlord served him with a 1 month notice to end tenancy for cause on April 12, 2012. He could not recall when the notice was dated. The tenant's application to dispute the notice was filed on April 20, 2012. In his application the tenant stated that the reason identified on the notice for its issuance is that "[he] had people in the apartment that she didn't want me to have in the apartment, but I did not have these people in the apartment."

Analysis

Based on the limited documentary evidence and the affirmed / undisputed testimony of the tenant, I find on a balance of probabilities as follows:

- that the landlord served the tenant with a 1 month notice to end tenancy for cause on April 12, 2012;
- that the tenant filed an application to dispute the notice within the 10 day period available for doing same after service, and
- that the tenant served the landlord with the application for dispute resolution and notice of hearing in a timely fashion after filing his application.

As the landlord made no written application in relation to the notice to end tenancy, and as the landlord did not attend the hearing and make an oral request for an order of possession, the notice is hereby set aside and the tenancy continues in full force and effect.

As the tenant has succeeded in his application to have the notice set aside, I find that he has established entitlement to recovery of the \$50.00 filing fee. Accordingly, I order that the tenant may withhold \$50.00 from the next regular payment of monthly rent.

Conclusion

The notice to end tenancy is hereby set aside. The tenancy continues uninterrupted.

The tenant may withhold \$50.00 from the next regular payment of monthly rent in order to recover the filing fee.

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: May 10, 2012.

Residential Tenancy Branch