



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Tenants to cancel a notice to end tenancy for cause and to recover the cost of the filing fee from the Landlords for this application.

Service of the hearing documents, by the Tenants to the Landlords, was done in accordance with section 89 of the *Act*, sent via registered mail on June 25, 2012. Mail receipt numbers were provided in the Tenants' verbal testimony.

The Landlords submitted documentary evidence to the Residential Tenancy Branch on July 10, 2012, in response to this application. Therefore, based on the foregoing and the submissions of the Tenants, I find the Landlords were sufficiently served notice of this proceeding and I proceeded in the Landlords' absence.

The Tenants appeared at the teleconference hearing and gave affirmed testimony. A summary of the testimony is provided below and includes only that which is relevant to the matters before me.

Issue(s) to be Decided

1. Should the 1 Month Notice to end tenancy issued June 25, 2012 be cancelled?

Background and Evidence

The Tenants affirmed they entered into a written tenancy agreement for a fixed term starting on approximately April 21, 2007 that switched to a month to month tenancy after one year. Rent is currently payable on the first of each month in the amount of \$1,040.00 and a security deposit of \$100.00 was transferred to this lease from a previous tenancy.

The Tenants stated that shortly after the Landlords changed locks on some of the doors to make them exit only the male Tenant sent an e-mail to voice his complaints. Then he began taking photos of doors propped open to compile proof for the Landlord that the

doors are more of a safety issue when they are propped open by Landlord's staff. On June 25, 2012 the male Tenant took a picture by accident of the maintenance person's boots and a verbal altercation took place and police were called. About 15 minutes after the verbal altercation the 1 Month Notice was taped to their door.

The Tenants confirmed they have never been issued any warning letters during their 4 ½ years of living in this building.

Analysis

When a Tenant makes application to cancel a 1 Month Notice, the burden of proof lies with the Landlord to prove the reasons for issuing the Notice.

Given the evidence before me, in the absence of any testimony from the Landlords who did not appear despite being properly served with notice of this proceeding, I accept the version of events as discussed by the Tenants.

Based on the foregoing I find the reasons for issuing the 1 Month Notice to be unsubstantiated and the Notice is hereby cancelled.

The Tenants have succeeded with their application; therefore I award recovery of the **\$50.00** filing fee.

Conclusion

The 1 Month Notice to end tenancy for cause issued June 25, 2012, is HEREBY CANCELLED and is of no force or effect.

The Tenants may deduct the one time award of **\$50.00** from their next rent payment as full recovery of their 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: July 17, 2012.

Residential Tenancy Branch