



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNL, MNDC

Introduction

This hearing dealt with the Tenant's application to cancel a *2 Month Notice to End Tenancy for Landlord's Use of Property* (the "Notice") and for a monetary award for the cost of photocopying evidence and serving documents upon the Landlord.

All parties provided affirmed testimony and had an opportunity to be heard and respond to other party's submissions.

Issue to be Decided

- Should the Notice issued May 29, 2012, be cancelled?
- Is the Tenant entitled to compensation for the cost of photocopies and registered mail costs?

Background and Evidence

This is the fourth application for dispute resolution that the Tenant has filed in 6 months. On December 14, 2011, a Hearing was convened to consider the Tenant's application to cancel a Notice to End Tenancy for Cause. The Tenant's application was granted. On January 18, 2012, a Hearing was convened to consider the Tenant's application to cancel a Notice to End Tenancy for Landlord's Use, which was also successful. On May 24, 2012, the Tenant applied for compensation for damage or loss and was awarded a one-time rent reduction and an additional reduction. Copies of these Decisions were provided in evidence.

The Tenant stated that she is applying to cancel the Notice because she questions the Landlord's "good faith" intention to move into the rental unit. She submitted that the Landlord issued the Notice in retaliation for her successful application for a rent reduction.

The Landlord has alleged the following reason on the Notice for ending the tenancy:

The rental unit will be occupied by the landlord or the landlord's spouse or a close family member (father, mother, or child) of the landlord or the landlord's spouse.

The Landlord's agent SA stated that the Landlord wishes to "cancel" the Notice to End Tenancy issued May 29, 2012, because the Landlord ticked the wrong box on the form. She stated that the Landlord will be issuing another Notice to End Tenancy because the Landlord intends to demolish or repair the rental unit in a manner that requires the rental unit to be vacant.

Analysis

The Landlord's agent agreed that the Notice was issued for an invalid reason and therefore the Tenant's application to cancel the Notice is granted. The tenancy remains in full force and effect until it is ended in accordance with the provisions of the Act.

There is no provision in the Act that speaks to a party's recovery of costs incurred in preparing for the Hearing, other than the filing fee for the application for dispute resolution, however in this case I find that the Tenant has established this part of her claim under the provisions of Section 67 of the Act, which states:

Director's orders: compensation for damage or loss

67 Without limiting the general authority in section 62 (3) [*director's authority respecting dispute resolution proceedings*], if damage or loss results from a party not complying with this Act, the regulations or a tenancy agreement, the director may determine the amount of, and order that party to pay, compensation to the other party.

I find that the Landlord, in repeatedly issuing invalid notices to end the tenancy, has not complied with Section 28 of the Act which provides that the Landlord must provide the Tenant quiet enjoyment of the rental unit. Therefore, I allow the Tenant's monetary claim in the amount of \$41.08. The Tenant may deduct **\$41.08** from a subsequent month's rent in satisfaction of this award and the Landlord must consider the rent paid in full.

Conclusion

The Notice to End Tenancy issued May 29, 2012 is **cancelled** and the tenancy remains in full force and effect.

The Tenant may deduct **\$41.08** from future rent due to the Landlord.

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 05, 2012.

Residential Tenancy Branch