



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 tenants' application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- cancellation of the landlord's 2 Month Notice to End Tenancy for Landlord's Use of Property (the 2 Month Notice) pursuant to section 49; and
- authorization to recover their filing fee for this application from the landlord pursuant to section 72.

The landlord did not attend this hearing, although I waited until 1:44 p.m. in order to enable the landlord to connect with this teleconference hearing scheduled for 1:30 p.m. The female tenant (the tenant) attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions. The tenant testified that on March 13, 2013, the tenants received the landlord's 2 Month Notice sent by the landlord by registered mail. The tenant testified that the tenants sent the landlord a copy of their dispute resolution hearing package by registered mail on March 30, 2013 to the address identified as the landlord's in the 2 Month Notice. She asserted that the landlord received the tenants' dispute resolution package because they were advised by the landlord's agent that the landlord was revoking the 2 Month Notice and sending a new 2 Month Notice based on the recent sale of the property to a purchaser who intends to live in this rental unit. The tenant testified that they have not received the new 2 Month Notice as yet, but very recently received notice that registered mail is at their post office. I am satisfied that the landlord served the original 2 Month Notice to the tenants and the tenants served the landlord with their hearing package in accordance with the *Act*.

Issues(s) to be Decided

Should the landlord's 2 Month Notice of March 5, 2013 be cancelled? Are the tenants entitled to recover the filing fee for their application from the landlord?

Background and Evidence

This tenancy began as a one-year fixed term tenancy on March 15, 2012. When the initial term expired on March 31, 2013, the tenancy continued as a periodic tenancy.

Monthly rent is set at \$1,150.00, payable in advance on the first of each month. The landlord continues to hold the tenants' \$575.00 security deposit.

The landlord's 2 Month Notice, entered into written evidence by the tenants, identified the following reason for seeking an end to this tenancy:

- *A family corporation owns the rental unit and it will be occupied by an individual who owns, or whose close family members own, all the voting shares...*

The tenants provided written evidence to demonstrate that the landlord listed the rental property for sale on March 11, 2013, shortly after sending the 2 Month Notice. The tenant also stated that the tenants are in the process of finding alternative accommodations and plan to vacate the rental unit before June 1, 2013.

Analysis

Based on the tenants' undisputed written and sworn testimony and the landlord's failure to either attend the hearing or submit any written evidence, I allow the tenants' application to cancel the 2 Month Notice of March 5, 2013. The 2 Month Notice of March 5, 2013 is of no effect and this tenancy continues.

Since the tenants have been successful in their application, I allow them to recover their \$50.00 filing fee from the landlord.

Conclusion

The tenants' application to cancel the 2 Month Notice of March 5, 2013 is allowed. This tenancy continues. I issue a \$50.00 monetary Order in the tenants' favour to allow the tenants to recover their filing fee from the landlord. The tenants are provided with these Orders in the above terms and the landlord must be served with this Order as soon as possible. Should the landlord fail to comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders of that Court. 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: April 24, 2013