



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Rancho Management Services
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC OLC FF

Introduction

This hearing dealt with an application by the tenant to cancel a notice to end tenancy for cause, as well as for an order that the landlord comply with the Act and recovery of the \$50 filing fee. The tenant called in to the teleconference hearing but the landlord did not.

The tenant stated that on May 1, 2013, she served the landlord with her application for dispute resolution and notice of the hearing by registered mail. I accepted the tenant's evidence on service of the hearing package and found that the landlord was deemed served with notice of the hearing on May 6, 2013. I proceeded with the hearing in the absence of the landlord.

At the outset of the hearing the tenant stated that two days prior to the hearing, on May 22, 2013, the landlord gave the tenant a letter stating that they were withdrawing the notice to end tenancy for cause. On this basis, the tenant withdrew her application to cancel the notice. The tenant also clarified that the portion of her application regarding an order that the landlord comply with the Act was merely in regard to service of the notice to end tenancy for cause. I informed the tenant that it was open to the landlord to serve the notice, but they would have to prove the validity of the notice. The only remaining issue in the tenant's application was recovery of the filing fee.

Issue(s) to be Decided

Is the tenant entitled to recovery of the filing fee?

Background and Evidence

The tenant stated that she did not receive the landlord's letter acknowledging that they were withdrawing the notice to end tenancy for cause until two days before the hearing.

The tenant stated that it was likely that the landlord would not have withdrawn the notice if the tenant had not applied to cancel the notice.

Analysis

I accept the evidence that if the tenant had not applied to cancel the notice, the landlord likely would not have withdrawn it. I therefore find that the tenant is entitled to recovery of the filing fee for the cost of her application.

Conclusion

I grant the tenant an order under section 67 for the balance due of \$50. This order may be filed in the Small Claims Court and enforced as an order 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: May 24, 2013

Residential Tenancy Branch