



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, OPT, ER, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant to cancel a 1 Month Notice to End Tenancy for Cause (the “notice”), issued on May 13, 2013, for an order of possession, to have the landlord make repairs to the site, and to recover the cost of filing their application.

Although served with the Application for Dispute Resolution and Notice of Hearing on June 14, 2103, by registered mail, a Canada post tracking number was provided as evidence of service, the landlord did not appear. I find the landlord has been duly served in accordance with the Act.

Preliminary and procedural issues

At the outset of the hearing, the tenant stated they do not need an order of possession of the rental unit, as that was an error on their part.

At the outset of the hearing the tenant stated that an order to have the landlord make repairs is no longer required as repair has been completed.

The tenant has applied to cancel a notice to end tenancy issued on May 13, 2013, the effective date in the notice is June 13, 2013. In a case where a tenant has applied to cancel a notice for cause, Residential Tenancy Branch Rules of Procedure require the landlord to provide their evidence and submission first, as the landlord has the burden of proving cause sufficient to terminate the tenancy for the reasons given on the notice.

Issue(s) to be Decided

Should the one month notice to end tenancy, issued on May 13, 2013, be cancelled?
Is the tenant entitled to recover the cost of the filing fee from the landlord?

Background and Evidence

The tenant testified that he was served with a notice to end tenancy dated May 13, 2013, which the tenant acknowledge he received on June 3, 2013, by registered mail. Filed in evidence is a copy of the notice that was received by the tenant.

The landlord did not appear to provide any evidence in support of the reasons stated in the notice.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

The evidence of the tenant was that he received the notice to end the tenancy on June 3, 2013. On June 10, 2013, the tenant disputed the notice to end tenancy by filing their application for Dispute Resolution. I find the tenant did dispute the notice to end tenancy within ten days of receiving the notice as required by the Act.

In case, the landlord has stated several reasons in the notice. As the onus is on the landlord to prove cause that is sufficient to terminate the tenancy and the landlord has failed to appear and has failed to provide any evidence in support of the notice. I find the landlord has failed to prove the notice was issues for the reasons stated on the notice.

Therefore, I grant the tenant's application to cancel the notice to end the tenancy that was issued on May 13, 2013. The tenancy will continue until legally ended in accordance with the Act.

As the tenant was successful with their application, I find the tenant is entitled to recover the cost of filing their application from the landlord. I authorize the tenant a onetime rent reduction from a future month rent payable in the amount of \$50.00, to fully satisfy this monetary award.

Conclusion

I grant the tenant's application and I order that the notice to end tenancy dated May 13, 2013, be cancelled. The tenancy will continue until legally ended in accordance with the Act.

The tenant is authorized a onetime rent reduction of \$50.00 to recover the cost of filing the application from 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 *Manufactured Home Park Tenancy*.

Dated: July 10, 2013

Residential Tenancy Branch

