



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, FF

Introduction

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

I find that the Notice to End Tenancy was sufficiently served on the Tenants. Further I find that the Application for Dispute Resolution/Notice of Hearing was sufficiently served on the Landlord. With respect to each of the applicant's claims I find as follows:

Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the tenant is entitled to an order cancelling one month dated June 16, 2013 and setting the end of tenancy for August 31, 2013?
- b. Whether the tenant is entitled to an order cancelling one month dated June 16, 2013 and setting the end of tenancy for July 31, 2013?
- c. Whether the tenant is entitled to recover the cost of the filing fee?

Background and Evidence

On February 9, 2013 the parties entered into a one year fixed term tenancy agreement in writing that provided that the tenancy would start on March 1, 2013 and end on March 1, 2014. The rent was \$1500 per month payable on the first day of each month. The tenancy agreement provided that the tenants were to pay a security deposit of \$750 but that the security deposit was still owing.

Analysis

Grounds for Termination

The landlord failed to identify the grounds for termination each of the Notices although the landlord orally told the Tenants it was because the Tenants failed to pay the security deposit. The tenants testified the landlord agreed to waive the payment of the security deposit.

Section 52 of the Residential Tenancy Act provides as follows:

Form and content of notice to end tenancy

52 In order to be effective, a notice to end a tenancy must be in writing and must

- (a) be signed and dated by the landlord or tenant giving the notice,
- (b) give the address of the rental unit,
- (c) state the effective date of the notice,
- (d) except for a notice under section 45 (1) or (2) [*tenant's notice*], state the grounds for ending the tenancy, and
- (e) when given by a landlord, be in the approved form.

The landlord acknowledged that he failed to identify the grounds for termination in the two Notices. I determined this was an essential ingredient as set out in section 52 of the Residential Tenancy Act. One of the fundamental principles of our legal system is the other party has sufficient notice of the basis for the claim against them. I determined that where the landlord failed to identify the grounds in the Notice that there would be a

denial of natural justice if I proceeded with the hearing on the basis of the oral statements made by the landlord.

Determination and Orders

As a result I ordered that the two Notices to End Tenancy be cancelled. The tenancy shall continue with the rights and obligations of the parties remaining unchanged. I have not decided the matter on its merits. The landlord has liberty to serve a new Notice to End Tenancy. The landlord advised the hearing that he has already served a new Notice on the Tenant. The tenants have been successful in their application and they are entitled to reimbursement of the cost of the filing fee. **I ordered the landlord pay to the Tenant the sum of \$50 for the cost of the filing fee such sum may be deducted from future rent.**

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 30, 2013

Residential Tenancy Branch

