



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Terra Property Mgmt.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC, FF

Introduction

This is an application to cancel a Notice to End Tenancy that was given for cause and a request for recovery of the \$50.00 filing fee.

A substantial amount of documentary evidence and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

Issue(s) to be Decided

The issue is whether or not to uphold or cancel a Notice to End Tenancy.

Background and Evidence

On July 18, 2013 the landlord served the tenant with a one-month Notice to End Tenancy for cause, with an end of tenancy date of August 31, 2013.

The landlords have however accepted rent for September 2013.

Analysis

If landlords collect rent for a date after the effective date of a Notice to End Tenancy, they re-establish the tenancy and can no longer end the tenancy based on the previous Notice to End Tenancy, unless the rent is accepted for use and occupancy only.

In this case the landlords did not issue a receipt for use and occupancy only, and therefore it's my finding that they have re-established the tenancy by collecting the September 2013 rent.

Conclusion

The request to cancel the Notice to End Tenancy is no longer required as this tenancy has been re-established as of September 2013, however since the tenant applied before the tenancy was re-established I will allow recovery of the \$50.00 filing fee. The tenant may therefore make a one-time deduction of \$50.00 from future rent payable 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: September 11, 2013

Residential Tenancy Branch

