



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, FF

Introduction

This hearing was convened by conference call in response to an application made by the tenant to cancel a notice to end tenancy for cause and to recover the filing fee for the cost of the application.

The tenant and landlord appeared for the hearing and the landlord confirmed receipt of the tenant's Notice of Hearing documents which were personally served to the landlord by the tenant. Based on this, I find that the tenant served the landlord with the Notice of Hearing documents in accordance with the *Residential Tenancy Act* (referred to as the "Act").

At the start of the hearing the tenant confirmed that he had moved out of the rental suite on January 26, 2013. As a result, the tenant withdrew his application to cancel the notice to end tenancy for cause as there was no need for me to make a determination on this notice.

The tenant and landlord also consented to amending the tenant's application, pursuant to section 64(3) (c) of the Act, with his correct address.

Analysis & Conclusion

The tenant stated that he had made his application for dispute resolution because he wanted to confirm that the notice to end tenancy for landlord's use of property which had been served to him on November 30, 2013 could not be voided by the landlord. The tenant stated that he had spoken to the Residential Tenancy Branch who had informed him that the eviction cannot be voided and that if he did not apply for dispute resolution to cancel the one month notice for cause, this may have jeopardized the two month notice to end tenancy for landlord's use of property. The tenant stated that he had acted on the 'advice' of the Residential Tenancy Branch and made the application as a result.

I explained to the tenant that policy guideline 11 to the Act states that a landlord or tenant cannot **unilaterally** withdraw a notice to end tenancy.

I am unable to determine the content of the discussion that took place with the tenant and the Residential Tenancy Branch, but I find that the tenant's primary aim of the application was to appear for the hearing to address issues relating to the notice to end tenancy for landlord's use of property and not the notice to end tenancy for cause. Therefore, I do not think it is reasonable for the landlord to be held responsible for the tenant's filing fee for the cost of making this application as the Residential Tenancy Branch had already confirmed that the notice to end tenancy for landlord's use of property could not be withdrawn and the policy guideline explaining the issues around withdrawing notices to end tenancy is freely available to the public.

As a result, I dismiss the tenant's application for the recovery of the filing fee.

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: February 17, 2014

Residential Tenancy Branch

