



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant to cancel a one month notice to end tenancy for cause.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

Preliminary Issue

The tenants filed an amendment to their application on February 27, 2014. The amendment was not filed within the required time lines under the Residential Tenancy Branch Rules of Procedure. As a result, the only matter that will proceed at today's hearing is their application to cancel the notice to end tenancy.

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 submission first, as the landlord has the burden of proving cause sufficient to terminate the tenancy for the reasons given on the notice.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to the relevant facts and issues in this decision.

Issue to be Decided

Should the notice to end tenancy be cancelled?

Background and Evidence

The parties agree that a one month notice to end tenancy for cause was received by the tenants and issued on January 6, 2014.

Analysis

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

In this case, the landlord has filed a notice to end tenancy for cause; however, the notice that was issued was using a form from the year 2003. This form is no longer current and is not in the approved form as required by Section 52 of the Act.

As a result, I find the notice issued on January 6, 2014, is not a valid notice to end the tenancy and has no force or effect.

Therefore, I grant the tenant's application to cancel the notice to end tenancy for cause. The tenancy will continue until legally ended in accordance with the Act.

As the tenant was successful with their application, the tenant is entitled to recover the cost of the filing fee from the landlord. The tenant is authorized a onetime deduction of \$50.00 from a future month rent payable to the landlord and that deduction is in full satisfaction of this award.

Conclusion

The tenant's application to cancel a one month notice to end tenancy for cause is granted. The tenancy will continue until legally ended in accordance with the Act.

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: March 05, 2014

Residential Tenancy Branch

