



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Lions Court Holdings
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC FF

Introduction

This hearing dealt with the tenant's application to cancel a notice to end tenancy for cause. The tenant and an agent for the landlord participated in the teleconference hearing.

At the outset of the hearing, the landlord confirmed that they had received the tenant's application and evidence.

The tenant stated that she did not receive any evidence from the landlord. The landlord stated that he personally served the tenant with the landlord's evidence; the landlord first stated that he served the tenant on May 19, 2014, and then he stated he served it on May 20, 2014. The landlord did not have any witnesses present to verify service. I therefore did not admit the landlord's documentary evidence.

Both parties were given full opportunity to give testimony and present their admissible evidence. I have reviewed all testimony and other evidence. However, in this decision I only describe the evidence relevant to the issues and findings in this matter.

Preliminary Issue – *Res Judicata*

The tenant applied to cancel a notice to end tenancy for cause that was served on her on March 26, 2014. The landlord previously served the tenant with a notice to end tenancy for cause on January 27, 2014. The tenant applied to cancel that notice, and on March 26, 2014 the January 27, 2014 notice was cancelled.

The new notice indicated three of the same causes as the first notice. I explained to the parties that I would not deal with the three causes listed on both notices, as those issues had already been determined on the same day as the new notice was issued,

and there was no evidence that the tenant had breached the Act within the hour or so between the conclusion of the first hearing and the issuance of the second notice.

The new alleged cause on the second notice was that the tenant had breached a material term of her tenancy agreement and had not corrected the breach within a reasonable time after written notice to do so. The landlord stated that the breach in question was the term of the tenancy agreement only allowing one occupant in the rental unit. The tenant stated that this issue had also already been dealt with in the previous hearing. In the March 26, 2014 decision, the arbitrator noted as follows: "The landlord testified that the tenant has added another occupant in violation of a clause in the tenancy agreement restricting the occupancy to one adult."

I find that the subject of the fourth alleged cause was raised and addressed in the March 26, 2014 hearing, and it is therefore *res judicata*, or already determined, along with the other three alleged causes.

The notice to end tenancy dated March 26, 2014 is cancelled.

The tenant is entitled to recovery of the \$50 filing fee for the cost of this application, and she therefore may deduct \$50 from her next month's 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: May 30, 2014

Residential Tenancy Branch

