



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 as a result of the tenant's application for dispute resolution under the *Residential Tenancy Act* (the "*Act*"). The tenant applied to cancel a 1 Month Notice to End Tenancy for Cause (the "1 Month Notice"), and to recover the cost of the filing fee.

The tenant and a witness for the tenant attended the teleconference hearing. As the landlord did not attend the hearing, service of the Notice of a Dispute Resolution Hearing (the "Notice of Hearing") and Application for Dispute Resolution (the "Application") were considered. The tenant testified that she served the landlord on August 6, 2014 at approximately 5:00 p.m., at the address of the landlord who served her the 1 Month Notice. The tenant stated that she had a witness present, S.M., who witnessed her serve the landlord. S.M. was called as a witness and affirmed under oath that she witnessed the tenant serve the landlord at the beginning of August with dispute resolution papers at approximately dinner time. Based on the above, I am satisfied that the landlord was sufficiently served with the Notice of Hearing and Application on August 6, 2014.

Issues to be Decided

- Should the 1 Month Notice to End Tenancy for Cause be cancelled?
- Is the tenant entitled to the recovery of the cost of her filing fee under the *Act*?

Background and Evidence

The tenant confirmed a 1 Month Notice dated July 29, 2014 with an effective vacancy date of August 30, 2014. The tenant applied to dispute the 1 Month Notice on August 1, 2014 which is within the permitted 10 day timeline pursuant to section 47 of the *Act*. The landlord listed the following reason on the Notice:

1. Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

The landlord did not attend the hearing to present evidence to support the 1 Month Notice dated July 29, 2014, although served with the Notice of Hearing and the Application. The tenant stated that she continues to occupy the rental unit.

Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on the balance of probabilities, I find the following.

When a tenant disputes a 1 Month Notice, the onus of proof reverts to the landlord to prove that the 1 Month Notice is valid and should be upheld. If the landlord fails to prove the 1 Month Notice is valid, the 1 Month Notice will be cancelled.

As the landlord did not attend the hearing to present evidence to support the 1 Month Notice, **I find** the landlord has failed to prove that the 1 Month Notice is valid. As a result, **I cancel** the 1 Month Notice dated July 29, 2014. **I ORDER** that the tenancy continue until ended in accordance with the *Act*.

As the tenant was successful with her application, **I ORDER** the tenant to deduct \$50.00 from a future month's rent on a one-time basis in full satisfaction of the recovery of the \$50.00 filing fee.

Conclusion

The 1 Month Notice dated July 29, 2014 has been cancelled and the tenancy has been ordered to continue until ended in accordance with the *Act*.

The tenant has been ordered to deduct \$50.00 from a future month's rent on a one-time basis in full satisfaction of the recovery of the \$50.00 filing fee.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: October 7, 2014

Residential Tenancy Branch

