



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Code: CNL, FF

Introduction & Background

This hearing was convened by way of conference call in response to a Tenants' Application for Dispute Resolution (the "Application") to cancel a 2 Month Notice to End Tenancy for Landlord's Use of Property (the "Notice") and to recover the filing fee.

The Tenants made this Application because they were served with the Notice on January 28, 2015 by a party (the second Landlord named on the Application) who was unknown to the Tenants. The Tenants explained in their Application that they have a fixed term tenancy and therefore, the Notice cannot be effective pursuant to Section 49(2) (c) of the *Residential Tenancy Act* (the "Act").

One of the Landlords named on the Tenants' Application and the female Tenant appeared for the hearing and provided affirmed testimony. Before I proceeded to hear the Tenants' Application, I asked the Landlord about the Notice. The Landlord explained that the Notice was served by her agent. However, the Landlord acknowledged that the agent was not known to the Tenants and confirmed that she had not given permission for the agent to serve the Tenants with the Notice. The Landlord also acknowledged that the Notice was not valid as the parties were currently engaged in a fixed term tenancy.

Policy Guideline 11 on the withdrawal of notices to end tenancy explains that a landlord or tenant cannot unilaterally withdraw a notice to end tenancy unless there is consent from the party to whom it is given.

As a result, the Landlord and Tenant both agreed that the Notice dated January 28, 2015 would be withdrawn by the Landlord and the tenancy will continue until such time it is ended in accordance with the Act.

The Tenant was asked about her Application regarding her request to recover the filing fee. The Tenant explained that she did not want this fee. Accordingly, the Tenant withdrew her Application for the filing fee.

Conclusion

The parties consented to the withdrawal of the Notice dated January 28, 2015. Therefore, this Notice has no effect and the tenancy will continue.

I have made no legal findings on the Tenants' Application which is now hereby dismissed. This file is now closed.

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 23, 2015

Residential Tenancy Branch

