



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

I find that the one month Notice to End Tenancy was sufficiently served on the Tenant by posting on April 27, 2015. Further I find that the Application for Dispute Resolution/Notice of Hearing filed the tenant was personally served on the landlord on April 30, 2015. With respect to each of the applicant's claims I find as follows:

Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the tenant is entitled to an order cancelling the Notice to End Tenancy dated April 27, 2015?
- b. Whether the tenant is entitled to recover the cost of the filing fee?

Background and Evidence

The tenancy began on October 1, 2013. The tenancy agreement provided that the tenant(s) would pay rent of \$475 per month payable in advance on the last day of each month. The tenant(s) paid a security deposit of \$237.50 at the start of the tenancy.

The dispute between the parties relates to the condition of the rental unit. The landlord alleges it is cluttered and constitutes a fire hazard. The tenant testified he was away when the Notices were given by the landlord and was not able to remove the clutter. He further testified he has removed the clutter and denies the rental unit is a fire hazard.

Grounds for Termination:

The Notice to End Tenancy relies on section 47(1)(d) of the Residential Tenancy Act.

That section provides as follows:

Landlord's notice: cause

47 (1) A landlord may end a tenancy by giving notice to end the tenancy if one or more of the following applies:

...

(d) the tenant or a person permitted on the residential property by the tenant has

...

(ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant, or

(iii) put the landlord's property at significant risk;

Settlement:

At the end of the hearing the parties reached a settlement and they asked that I record the settlement pursuant to section 63(2) of the Residential Tenancy Act as follows:

- a. The tenant represents he has removed the clutter and excess belongings from the rental unit and it is not a fire hazard.
- b. The landlord withdraws the one month Notice to End Tenancy on a without prejudice basis and reserves the right that should it be necessary to serve another one month Notice to End Tenancy that the landlord has liberty to rely on the facts and evidence which was part of the within Notice.
- c. The landlord intends to conduct an inspection in the near future.
- d. The tenant represents he will maintain the rental unit in an uncluttered condition such that it is not a fire hazard.

Determination and Orders:

As a result of the settlement I ordered that the Notice to End Tenancy be cancelled as it has been withdrawn. The landlord has the right to serve a new one month Notice to End Tenancy based on the same facts and evidence. The tenancy shall continue with the rights and obligations of the parties remaining unchanged. I dismissed the tenant's application to recover the cost of the filing fee as it was not part of the settlement.

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: June 12, 2015

Residential Tenancy Branch

