



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, OPL, OPN, FF

Introduction

This hearing was convened in response to an application by the Tenant and an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”).

The Tenant applied for:

1. An Order cancelling a Notice to End Tenancy – Section 49; and
2. An Order to recover the filing fee for this application - Section 72.

The Landlord applied for:

1. An Order of Possession - Section 55; and
2. An Order to recover the filing fee for this application - Section 72.

The Tenant and Landlord were each given full opportunity under oath to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the notice to end tenancy effective?

Is the Tenant entitled to a cancellation of the notice to end tenancy?

Is the Tenant entitled to recovery of the filing fee?

Is the Landlord entitled to an order of possession?

Background and Evidence

The Landlord states that on April 22, 2015 the Tenant was served with a two month notice to end tenancy for landlord’s use (the “Notice”). The Landlord confirms that the Notice was not given on the form provided by the Residential Tenancy Branch. The

Tenant claims a cancellation of the Notice and the Landlord claims an order of possession pursuant to the Notice. The Landlord confirms that the Tenant has not given any notice to end tenancy to the Landlord.

Analysis

Section 52 of the Act provides that In order to be effective, a notice to end a tenancy, when given by a landlord, must be in the approved form. As the Notice given to the Tenant is not in the approved form, I find that the Notice is not effective and that the Tenant is entitled to a cancellation of the Notice. As the Notice is not effective, the Landlord is not entitled to an order of possession and I dismiss the Landlord's application. As the Tenant has been successful I find that the Tenant is entitled to recovery of the filing fee and I order the Tenant to deduct the \$50.00 from future rent payable in full satisfaction of the claim.

Conclusion

The Notice is not effective and the Landlord's application is dismissed.

I order the Tenant to reduce future rent payable by \$50.00 in full satisfaction of the claim.

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 11, 2015

Residential Tenancy Branch

