



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Code: CNL, FF, O

Introduction & Background

This hearing was convened by way of conference call in response to a Tenant's Application for Dispute Resolution (the "Application") on May 4, 2015 to cancel a 2 Month Notice to End Tenancy for Landlord's Use of Property (the "Notice"), to recover the filing fee, and for "Other" issues of which none were disclosed during the hearing.

The Tenant appeared for the hearing at the scheduled time of 11:00 a.m. However, there was no appearance by the Landlord at the onset of the hearing. The Tenant confirmed that she had served notice of this hearing to the Landlord by registered mail. The Tenant provided the Canada Post tracking number into oral evidence for this method of service and testified that the Canada Post website indicated that it was received and signed for by the Landlord on May 11, 2015. Therefore, I determined that the Tenant had served the required documents for this hearing pursuant to Section 89(1) (c) of the *Residential Tenancy Act* (the "Act")

The Tenant provided affirmed testimony that she had received the Notice from the Landlord by e-mail on April 20, 2015 in the form of an attachment. The Tenant provided a copy of the email into evidence as well as the Notice.

The Tenant was informed that the Act does not recognise e-mail as a method to serve a document. Furthermore, when a Landlord serves the Tenant with such a Notice, they bear the burden to prove the Notice. As the Landlord failed to appear for this hearing after ten minutes, the hearing was formally concluded and the Tenant was informed that the Notice would be cancelled.

The Tenant remained on the line to obtain further information with regards to her rights and obligations as a Tenant in this tenancy. At 11:12 a.m. the Landlord dialed into the hearing. The Landlord was informed that the hearing had already concluded. The Landlord requested that he be allowed to speak to the Tenant about the tenancy as she

had not exited the call at the time the Landlord had dialed in. I granted the Landlord permission to have a discussion with the Tenant in an effort to reach resolution in this matter. The Landlord and Tenant engaged into a discussion and the parties decide that at this moment in time the best resolution was to withdraw the Notice.

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 April 9, 2015 would be withdrawn by the Landlord and the tenancy will continue until such time it is ended in accordance with the Act.

As the Landlord had failed to appear for the hearing on time, and the tenancy is to continue, I grant the Tenant her \$50.00 filing fee. Pursuant to Section 72(1) (a) of the Act, the Tenant may deduct this award of \$50.00 from her next installment of rent. It is suggested that the Tenant provide a copy of this Decision when making the deduction to the rent.

Conclusion

The parties consented to the withdrawal of the Notice dated April 9, 2015. Therefore, this Notice has no effect and the tenancy will continue until it is ended in accordance with the Act. The Tenant is granted her filing fee from the 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: June 17, 2015

Residential Tenancy Branch

