



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC MT FF

Introduction

This hearing was convened as a result of the tenants' application for dispute resolution under the *Residential Tenancy Act* (the "Act"). The tenants applied to cancel a 1 Month Notice to End Tenancy for Cause (the "1 Month Notice"), for more time to make an application to cancel a Notice to End Tenancy and to recover the cost of the filing fee.

An agent for the tenants (the "agent") 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 agent testified that tenant M.M served the Notice of Hearing and Application personally on the landlord on July 27, 2015 at 11:00 a.m. at the landlord's address. The agent stated that the landlord accepted the papers and that just a couple days before the hearing, the landlord slipped a note under the tenants door indicating that they would not be attending the hearing and that the landlord was "okay" with the tenancy now. The agent stated that witness D.M. was present when the landlord was served on July 27, 2015. As a result, I am satisfied that the landlord was served with the Notice of Hearing and Application on July 27, 2015, and was aware of the date and time of the hearing.

Preliminary and Procedural Matter

Although the tenants applied for more time to make an application to cancel a Notice to End Tenancy, I find that I do not need to consider that portion of their claim as the 1 Month Notice was disputed on time. The 1 Month Notice is dated July 16, 2015 and the tenants disputed the 1 Month Notice on July 24, 2015 which is within the 10 day timeline provided for under section 47 of the *Act*.

Issue to be Decided

- Should the 1 Month Notice to End Tenancy for Cause be cancelled?

Background and Evidence

A copy of the 1 Month Notice was submitted in evidence. The 1 Month Notice is dated July 16, 2015 and lists three causes. The tenants disputed the 1 Month Notice on July 24, 2015. The landlord failed to attend the hearing to speak to the merits of the 1 Month Notice.

Analysis

Based on the documentary evidence and the undisputed testimony of the agent, and on the balance of probabilities, I find the following.

When tenants dispute 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, it 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 16, 2015.

I ORDER that the tenancy continue until ended in accordance with the *Act*.

The agent stated that the tenants will waive recovery of the filing fee of \$50. As a result, I have not granted the tenants the filing fee as they waived their right towards the recovery of that fee.

Conclusion

The tenants' application is successful.

The 1 Month Notice to End Tenancy for Cause dated July 16, 2015 is cancelled, due to insufficient evidence. The tenancy has been ordered to continue until ended in accordance with the *Act*.

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: August 27, 2015

Residential Tenancy Branch

