



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, CNL, FF

Introduction

This is an application brought by the tenant requesting an order canceling a Notice to End Tenancy that was given for cause, an order canceling a Notice to End Tenancy that was given for landlord use, and a request for recovery of the \$50.00 filing fee.

A substantial amount of documentary evidence, photo evidence, and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all relevant submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All parties were affirmed.

Issue(s) to be Decided

The issues are:

1. Whether or not to cancel or uphold a 1 month Notice to End Tenancy that was given for cause.
2. Whether or not to cancel or uphold a two month Notice to End Tenancy that was not given in the proper form.
3. Whether to order recovery of the \$50.00 filing fee.

Background and Evidence

At the beginning of the conference call the landlord stated that he is withdrawing the one-month Notice to End Tenancy and the improper Notice to End Tenancy that was not given in the correct form, because on June 26, 2015 he subsequently served the

tenants with a proper two month Notice to End Tenancy, which the tenants have not disputed.

The landlord therefore requested that an Order of Possession be issued for the end of August 2015.

The tenants agreed that they did not file a dispute of the two month Notice to End Tenancy which they received on June 26, 2015, stating they had been advised by the Residential Tenancy Branch that they were not required to do so.

Analysis

The landlord has withdrawn the one-month Notice to End Tenancy and therefore that notice is no longer enforceable.

The tenants however admit that they received a two month Notice to End Tenancy on June 26, 2015 and that they have not filed any dispute of that notice.

Sections 49(8) & 49(9) of the Residential Tenancy Act state:

(8) A tenant may dispute a notice under this section by making an application for dispute resolution within 15 days after the date the tenant receives the notice.

(9) If a tenant who has received a notice under this section does not make an application for dispute resolution in accordance with subsection (8), the tenant

(a) is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and

(b) must vacate the rental unit by that date.

Therefore since the tenants admit that they received the Notice to End Tenancy on June 26, 2015 and also admit that they have filed no dispute of the notice, Section 49(9) applies in the tenants must vacate the rental unit on August 31, 2015.

The tenants claim that they were advised by the Residential Tenancy Branch that they were not required to file a dispute of that Notice to End Tenancy, however I was not a party to that conversation and have no way of knowing whether or not the tenants were given incorrect information.

Conclusion

As stated above the one-month Notice to End Tenancy dated June 2, 2015 has been withdrawn by the landlord and is no longer enforceable, the two month Notice to End Tenancy that was given in incorrect form by, e-mail, has also been withdrawn.

The two month Notice to End Tenancy that was served June 26, 2015 will not be canceled as the tenants have filed no dispute of that notice, and at the request of the landlord I have issued an Order of Possession for August 31, 2015.

The request for recovery of the filing fee is dismissed.

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: August 17, 2015

Residential Tenancy Branch

