



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, FF

Introduction

This hearing was convened by conference call in response to an Application for Dispute Resolution (the “Application”) made by the Tenant to cancel a 1 Month Notice to End Tenancy for Cause (the “1 Month Notice”), and to recover the filing fee.

The Landlord, the Landlord’s wife and the Tenant appeared for the hearing. However, only the Landlord and Tenant provided affirmed testimony. The Landlord confirmed receipt of the Tenant’s Application by registered mail. The Landlord had not provided any documentary evidence prior to the hearing. However, the Landlord testified that he had submitted two fax pages of two termination notices from other renters which neighbour the Tenant. The Landlord explained that he had provided these to the Residential Tenancy Branch two days prior to the hearing.

I examined the electronic records relating to this file and there was no indication that these two pages had been received by the Residential Tenancy Branch. I informed the Landlord that this evidence may still be waiting to be processed by the Residential Tenancy Branch because it was submitted late. This is the reason why the Rules of Procedure establish strict time lines for the submission of evidence prior to the hearing.

The Tenant confirmed receipt of the two pages which was served to her two days prior to the hearing. As a result, I informed the Landlord that he was at liberty to present this evidence into oral testimony during the proceedings.

The Tenant confirmed receipt of the 1 Month Notice dated July 14, 2015 on the same date by personal service. The Tenant applied to dispute the Notice on July 16, 2015. Therefore, I determined that the Tenant had disputed the Notice within the ten day time limit stipulated by Section 47(4) of the Act.

At the start of the hearing, the parties were asked about their position in relation to the ending of the tenancy. The Landlord explained that he was in the process of obtaining building permits and paperwork so that he could complete major renovations and repairs to the rental unit. As a result, the Landlord testified that he intended to serve the Tenant with a 2 month notice to end tenancy for the Landlord's use of the property on the same date as this hearing.

The parties engaged into a short discussion about the 2 month notice and the parties agreed that the Landlord would withdraw the 1 Month Notice as he was intending the end the tenancy with the 2 month notice. The Tenant agreed to the Landlord withdrawing the 1 Month Notice and that she would await the 2 month notice and consider her position after it is served to her. The parties confirmed at the end of the hearing their voluntary agreement to withdraw the 1 Month Notice.

However, the Tenant wanted to recover her filing fee for the cost of making the Application. As the Landlord withdrew the 1 Month Notice and the Tenant had to file to dispute it, I find the Tenant is entitled to the \$50.00 filing fee. Pursuant to Section 72(2) (a) of the Act, the Tenant may recover this amount by deducting \$50.00 from her next installment of rent. The Tenant may want to provide a copy of this decision to the Landlord when paying her next installment of rent.

Conclusion

The parties agreed that the 1 Month Notice dated July 14, 2015 would be withdrawn and the tenancy will continue until such time it is ended in accordance with the Act. The Tenant's Application to recover the filing fee of \$50.00 from her next installment of rent is granted.

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: September 30, 2015

Residential Tenancy Branch

