



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MT CNL FF

Introduction

This hearing convened pursuant to the tenant's application to cancel a notice to end tenancy. The tenant and the landlord participated in the teleconference hearing.

At the outset of the hearing the tenant confirmed that the new owner allowed the tenant to remain in the rental unit. Therefore, it was not necessary for me to consider the notice to end tenancy. The only remaining issue was whether the tenant is entitled to recovery of the filing fee for the cost of her application.

Issue(s) to be Decided

Is the tenant entitled to recovery of her filing fee?

Background and Evidence

On July 31, 2015 the landlord served the tenant with a notice to end tenancy for landlord's use. The notice indicated that the reason for ending the tenancy was that the property was being sold to a new owner who intended to occupy the unit.

The tenant stated that she and the new owner resolved the lease, and she never should have been served with a notice to end tenancy.

The landlord stated that the purchasers asked her to serve the notice to end tenancy, and they were fully aware that the tenant was in a fixed-term lease.

Analysis

I find that the tenant is entitled to recovery of the filing fee for her application. If the tenant had not filed to dispute the notice, the landlord could have received an order of possession requiring the tenant to vacate.

A tenant may name either the previous landlord or the new landlord when served with a notice to end tenancy for landlord's use. Whether the purchasers were aware of the situation or not is not the concern of the tenant. The respondent landlord in this matter will have to resolve the issue with the new owners.

Conclusion

I grant the tenant an order under section 67 for the amount due of \$50.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

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: November 2, 2015

Residential Tenancy Branch

