



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC FF

Introduction

This hearing was convened as a result of the tenant's application for dispute resolution under the *Residential Tenancy Act* (the "*Act*"). The tenant applied to cancel a 1 Month Notice to End Tenancy for Cause (the "1 Month Notice") dated September 14, 2015, and to recover the cost of the filing fee.

The tenant, the landlord, and an agent for the landlord (the "agent") attended the teleconference hearing. The hearing process was explained to the parties and an opportunity was given to ask questions about the hearing process. Thereafter the parties gave affirmed testimony, and were provided the opportunity to present their evidence orally and in documentary form prior to the hearing, and make submissions to me.

Issues to be Decided

- Should the 1 Month Notice be cancelled?
- Is the tenant entitled to the recovery of the cost of her filing fee under the *Act*?

Background and Evidence

The parties agreed that a month to month tenancy agreement was entered into by the parties on November 1, 2013. The parties agree that monthly rent is \$1,100 and is due on the first day of each month. The parties confirmed that the tenant paid a security deposit of \$550 at the start of the tenancy.

On September 14, 2015, the tenant confirmed receiving a 1 Month Notice to End Tenancy for Cause (the "Notice") dated on the same date, with an effective vacancy date of October 16, 2015, which corrects automatically under the *Act* to October 31,

2015. The tenant disputed the Notice on September 22, 2015. The landlord listed the following reasons on the Notice:

1. Tenant has allowed an unreasonable number of occupants in the unit.
2. Tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord.
3. Tenant or a person permitted on the property by the tenant has put the landlord's property at significant risk.
4. Tenant or a person permitted on the property by the tenant has seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant.
5. Tenant has engaged in illegal activity that has, or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord.

Regarding all five causes listed on the 1 Month Notice, the tenant vehemently denies all of the causes listed by the landlord. The landlord submitted no documentary evidence in support of the 1 Month Notice listed. Furthermore, the phone number provided during the hearing for the landlord's witness ended up being an incorrect phone number where the person who answered did not know a person with the name, B.P., which was the name of the witness provided by the landlord. As a result, the landlord failed to provide correct contact information for her only witness.

Analysis

Based on the documentary evidence and the oral testimony provided during the hearing, and on the balance of probabilities, I find the following.

When a tenant disputes 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, the 1 Month Notice will be cancelled.

Where one party provides a version of events in one way, and the other party provides an equally probable version of events, without further evidence, the party with the burden of proof has not met the onus to prove their claim and the claim fails. In the matter before me, the landlord has alleged five causes and the tenant denied all five of those causes during the hearing. Furthermore, the landlord had no supporting documentary evidence or witnesses who could provide testimony. Therefore, **I find** the landlord has failed to meet the burden of proof to support the five causes listed on the 1 Month Notice dated September 14, 2015. Based on the above, **I cancel** the 1 Month

Notice dated September 14, 2015 as the landlord has failed to prove that the 1 Month Notice has merit.

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

As the tenant's application had merit, I grant the tenant the recovery of the cost of the filing fee in the amount of **\$50**. **I authorize** the tenant a one-time rent reduction in the amount of **\$50** from a future month's rent in full satisfaction of the recovery of the filing fee.

Conclusion

The tenant's application is successful.

The 1 Month Notice dated September 14, 2015 has been cancelled due to insufficient evidence. The tenancy shall continue until ended in accordance with the *Act*.

The tenant is authorized a one-time rent reduction of \$50 in full satisfaction of the recovery of the filing fee as the tenant was successful with her application.

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: November 23, 2015

Residential Tenancy Branch

