



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Locke Property Management Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC, FF

Introduction

This hearing was convened by way of conference call concerning an application made by the tenant seeking an order cancelling a notice to end tenancy for cause and to recover the filing fee from the landlord for the cost of the application.

The tenant attended the hearing and gave affirmed testimony, however no one for the landlord company appeared. The line remained open while the phone system was monitored for 10 minutes prior to hearing any testimony and the only participant who joined the call was the tenant. The tenant testified that on March 4, 2016 she served the landlord company with the hearing package, which contained the tenant's application and notice of this hearing, by serving a person at the landlord's office where rent is paid, and I am satisfied that the landlord has been served in accordance with the *Residential Tenancy Act*.

Issue(s) to be Decided

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

Background and Evidence

The tenant testified that this fixed term tenancy began on December 1, 2014 and reverted to a month-to-month tenancy after the first year. The tenant still resides in the rental unit. Rent in the amount of \$925.00 per month is payable on the 5th day of each month and there are no rental arrears. At the outset of the tenancy the landlord collected a security deposit from the tenant in the amount of \$462.50 which is still held in trust by the landlord, and no pet damage deposit was collected.

The tenant further testified that the landlord served the tenant with a 1 Month Notice to End Tenancy for Cause by posting it to the door of the rental unit, a copy of which has

been provided. It is dated February 28, 2016 and contains an effective date of vacancy of March 31, 2016. The reason for issuing the notice is: Tenant or a person permitted on the property by the tenant has put the landlord's property at significant risk. The tenant denies the allegation and testified that the landlord did not have cause to issue the notice.

The tenant further testified that the landlord, since the issuance of the 1 Month Notice to End Tenancy for Cause, has also served the tenant with a notice of rental increase and an invoice for a filing fee in the amount of \$100.00. The tenant has not been served with an application for dispute resolution by the landlord, and the parties have never been to a dispute resolution hearing prior to today.

Analysis

Where a tenant disputes a notice to end a tenancy given by a landlord, the onus is on the landlord to establish that the notice was issued in accordance with the *Residential Tenancy Act*, which can include the reasons for issuing it. In this case, the landlord has not appeared, has not established any cause for issuing the notice, and having found that the landlord was served in accordance with the *Residential Tenancy Act*, I hereby cancel the notice.

With respect to the rental increase, I have no copy of the notice, and it is not relevant to the application before me. I make no findings of fact or law with respect to it.

With respect to the landlord's invoice, a party may only recover a filing fee charged by the Residential Tenancy Branch where that party is successful in obtaining an order applied for by that party. In this case, I have no such application by the landlord, and I advised the tenant that unless the landlord had been successful with an application, the tenant was not obligated to pay the invoice.

Since the tenant has been successful with this application, the tenant is entitled to recovery of the \$100.00 filing fee. I order that the tenant be permitted to reduce rent for a future month by that amount, or may otherwise recover it.

Conclusion

For the reasons set out above, the 1 Month Notice to End Tenancy for Cause dated February 28, 2016 is hereby cancelled and the tenancy continues.

I hereby grant a monetary order in favour of the tenant as against the landlord pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$100.00, and I order that the tenant be permitted to reduce rent for a future month by that amount, or may otherwise recover it.

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: April 08, 2016

Residential Tenancy Branch