



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL, FF

Introduction

This hearing convened as a result of a Tenants' Application to cancel a 2 Month Notice to end Tenancy for Landlord's Use of Property issued May 11, 2016 (the "Notice") and to recover the filing fee.

Both parties appeared at the hearing. The hearing process was explained and the participants were asked if they had any questions. Both parties were provided the opportunity to present their evidence orally and in written and documentary form, and make submissions to me.

The parties agreed that all evidence that each party provided had been exchanged. No issues with respect to service or delivery of documents or evidence were raised.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

1. Should the Notice be cancelled?
2. Are the Tenants entitled to recovery of the fee paid to file their application for dispute resolution?

Background and Evidence

Residential Tenancy Branch Rules of Procedure provide that when a Tenant makes an application to cancel a Notice to End Tenancy, the Landlord must present their case first as it is the Landlord's obligation to prove, on a balance of probabilities, that the Notice should be upheld.

The Landlord provided affirmed testimony. He confirmed that the address of the rental unit was not as he had written on the Notice.

As the validity, form and content of the Notice was at issue, I did not consider further evidence from the Landlord with respect to his intentions with the property for reasons which will be set out in this my Decision.

Analysis

Section 52 of the *Residential Tenancy Act* deals with the form and content of a Notice to end Tenancy and reads as follows:

Form and content of notice to end tenancy

52 In order to be effective, a notice to end a tenancy must be in writing and must

- (a) be signed and dated by the landlord or tenant giving the notice,
- (b) give the address of the rental unit,
- (c) state the effective date of the notice,
- (d) except for a notice under section 45 (1) or (2) [*tenant's notice*], state the grounds for ending the tenancy, and
- (e) when given by a landlord, be in the approved form.

The Tenants submit that the Notice is invalid as the Landlord incorrectly noted the address of the rental unit. The Landlord confirmed in his testimony that the address on the Notice was incomplete.

Section 53 of the *Act* permits me to correct an ineffective date on a Notice. There is no similar provision for correcting an address.

I find that the Notice fails to comply with section 52(b) as the address is incorrect. Accordingly, grant the Tenants' application for an Order cancelling the Notice pursuant to section 49(8).

As I have found the Notice in effective based on the Landlords' evidence, I did not need to hear evidence from the Tenants.

As the Tenants were successful, I grant them recovery of the \$100.00 filing fee pursuant to sections 67 and 72(1) of the *Residential Tenancy Act*. I authorize the Tenants to reduce their next month's rent payment by \$100.00 as compensation for this amount.

Conclusion

The Notice is cancelled pursuant to sections 52(b) and 49. The tenancy will continue until ended in accordance with the *Act*. The Tenants are entitled to recovery of the filing fee and may reduce their next month's rent by \$100.00 as compensation thereof.

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: June 01, 2016

Residential Tenancy Branch