



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL, OLC, FF

Introduction

This hearing dealt with an application by the tenants seeking to have a Two Month Notice to End Tenancy for Landlords Use of Property set aside, an order to have the landlord comply with the Act and an order to recover the filing fee for this application. The landlord participated in the conference call hearing but the tenant(s) did not. The tenants initiated the dispute resolution process by filing an application and serving the landlord notice of this date and time. Based on the above I find that the tenants are aware of today's hearing date and the matter proceeded and completed in their absence. The landlord stated that he received the tenants' documentary evidence. The landlord did not submit any evidence for this hearing. The landlord gave affirmed evidence.

Issues to be Decided

Are the tenants entitled to any of the above under the Act, tenancy or regulation?

Background and Evidence

The landlord gave the following testimony:

The tenancy began on or about June 1, 2013. Rent in the amount of \$1000.00 plus utilities is payable in advance on the first day of each month. At the outset of the tenancy the landlord collected from the tenant a security deposit in the amount of \$475.00. The landlord stated that he wishes to move into the property with his wife for his own personal use. The landlord stated that he is the owner. The landlord stated that he served the tenants by way of registered mail a Two Month Notice to End Tenancy for Landlords Use of Property on May 18, 2016 with an effective date of July 31, 2016. The landlord requests an order of possession.

Analysis

When a landlord issues a notice to end tenancy pursuant to Section 49 of the Act, they bear the burden of providing sufficient evidence to support the issuance of the notice. In the case before me neither party has supplied a copy of the 2 Month Notice to End Tenancy for Landlords Use of Property. I spent a large portion of the hearing explaining the crucial and vital nature of this document to the landlord. The Notice is not a trivial piece of information. It is the foundation that a landlord relies on to assist in their application to end a tenancy. As there is no notice before me to determine whether it conforms to Section 49 and 52 of the Act, I am unable to make a determination on its merit. In addition, the landlord did not provide any proof of service for the notice; the registered mail receipt or tracking number. The tenant is entitled to have full answer and defence of any allegation made against them as is required under the Natural Laws of Justice. I decline to grant the landlords request for an order of possession due to the insufficient evidence before me.

As the tenant did not participate in this hearing or provide some details as to which notice they were disputing, I am unable to make a determination of that notice or its validity.

Conclusion

The tenants' application is dismissed as there is no notice for me to make a determination or consider its merits.

The landlords request for an order of possession is dismissed on the same basis.

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 22, 2016

Residential Tenancy Branch