



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC FF O

Introduction

This hearing dealt with the tenants' application pursuant to the *Residential Tenancy Act* ("the Act") for cancellation of the landlord's 1 Month Notice to End Tenancy for Cause pursuant to section 47 and authorization to recover the filing fee for this application from the landlord pursuant to section 72.

Both parties attended the hearing and were given an opportunity to be heard, to present sworn testimony and to make submissions.

The landlord testified that he testified that he submitted an evidence package to the Residential Tenancy Branch and served to the tenants be considered at this hearing. I did not have a landlord evidence package before me and the tenants testified that they received the materials the evening prior to this hearing.

The Dispute Resolution Rules of Procedure Rule 3.11 provides that a party must not unreasonably delay the service and submission of evidence but must submit and serve any evidence as soon as reasonably possible. The landlord testified that he has been very busy and unable to prepare and provide the materials to the tenant before last night. Neither party sought to adjourn this hearing.

The tenants testified that they had not had an opportunity to review or respond to the documentary materials submitted as evidence by the landlords. I find that the landlord failed to comply with the timelines for service and unreasonably delayed the service of evidence. Therefore, I refuse to consider the landlord's evidence.

Before the conclusion of this hearing, the parties discussed the issues between them, engaged in a conversation, turned their minds to compromise and achieved a resolution of their dispute.

Background and Evidence

This tenancy began in March 1, 2011 as a month to month tenancy with a rental amount of \$750.00 payable on the first of each month. The landlord testified that they have received some complaints from the neighbours near the residential property regarding the tenants. The landlord

also testified that the landlord lives above the tenants and has been bothered by issues related to smoking, the tenant's pets and the number of occupants at the rental unit.

The landlord discussed the nature of the disruption to their enjoyment of their residence and the tenant made certain agreements to address those issues. Both parties agreed that the tenancy will continue at this time.

Analysis

Pursuant to section 63 of the *Act*, the Arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order. Given the agreement reached between the parties during the proceedings, I find that the parties have settled their dispute and the following records this settlement as a decision:

The Parties mutually agreed as follows:

1. The landlord agreed to withdraw the 1 Month Notice to End Tenancy.
2. The tenants agreed to smoke cigarettes on the portion of the yard furthest from the landlord's unit and the residential property/building.
3. The landlord agreed that the tenant's cats may remain on the property.
4. The tenant agreed to clear the yard of cat feces once a week.
5. The tenant agreed that, if the tenants' guests will stay at the residence for over 2 nights, the tenant will report the names of the guests and the length of the stay to the landlord.
6. The landlord agrees that the outstanding bill for the broken window at the property is deemed paid in full as of the date of this hearing (in consideration of the tenant's cost in filing this application).
7. These terms comprise the full and final settlement of all aspects of this dispute for both parties.

Conclusion

The 1 Month Notice to End Tenancy for Cause is withdrawn.

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: August 11, 2016

Residential Tenancy Branch