



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

CNE, FF

Introduction

The tenant has applied to cancel a one month Notice to end tenancy for end of employment that was issued on September 30, 2016 and to recover the filing fee cost from the landlord.

The tenant provided affirmed testimony that on October 5, 2016 copies of the Application for Dispute Resolution and Notice of Hearing were sent to the landlord via registered mail to the address noted on the Application. The tenant used the service address provided on the Notice to end tenancy. A Canada Post tracking number was provided as evidence of service.

Notices of registered mail were left for the landlord by Canada Post on October 7 and 31, 2016. The landlord did not claim the mail and it was returned to the tenant.

A failure to claim registered mail does not allow a party to avoid service. Therefore, I find that these documents are deemed to have been served on the fifth day after mailing, in accordance with section 89 and 90 of the Act.

The landlord did not appear at the hearing.

Issue(s) to be Decided

Should the one month Notice ending tenancy for end of employment issued on September 30, 2016 be cancelled?

Background and Evidence

The tenant has lived in the rental unit for 19 years. Rent is \$622.00 due on the first day of each month. The tenant was employed by the previous owner, but has now ceased that employment. The landlord has issued a rent increase that will take effect January 1, 2017.

The tenant disputed the Notice ending tenancy within the required time limit. The Notice provides a single reason for ending the tenancy; that the rental unit is part of the tenant's employment, the employment has ended and the landlord intends to rent or provide the unit to a new employee.

The landlord did not attend the hearing, in support of the Notice ending tenancy issued to the tenant.

Analysis

In the absence of the landlord, who has the burden of proving the reason on the Notice I find that the one month Notice to end tenancy for end of employment issued on September 30, 2016 is cancelled.

The tenancy will continue until it is ended in accordance with the Act.

As the application has merit I find, pursuant to section 72 of the Act, that the tenant is entitled to deduct the \$100.00 filing fee from the next month's rent due.

Conclusion

The one month Notice to end tenancy for end of employment issued on September 30, 2016 is cancelled.

The tenant is entitled to filing fee costs.

This decision is final and binding 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 24, 2016

Residential Tenancy Branch