



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, OLC, FF

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 47;
- an order requiring the landlord to comply with the Act, regulation or tenancy agreement pursuant to section 62;
- authorization to recover her filing fee for this application from the landlords pursuant to section 72.

Both parties attended the hearing via conference call and provided undisputed affirmed testimony. The landlord did not submit any documentary evidence. The tenant stated that the landlord was served with the notice of hearing package and the submitted documentary evidence via Canada Post Registered Mail on September 23, 2016 and has submitted a copy of the Canada Post Customer Receipt Tracking number as confirmation. The tenant states that she also placed a copy of the same package in the building office mailbox on September 23, 2016. The tenant stated that she confirmed on the Canada Post Website that the landlord received this package. As both parties have attended and have confirmed receipt of the notice of hearing package and the tenant's submitted documentary evidence, I am satisfied that both parties have been properly served as per sections 88 and 89 of the Act.

At the outset both parties confirmed that the landlord had cancelled the 1 Month Notice dated September 13, 2016 in an email sent to the tenant on September 26, 2016. The tenant confirmed that all of her issues have been resolved with the landlord except for the recovery of her filing fee. The landlord concurred. As such no further action is required except for the issue of the filing fee.

Both parties agreed that the tenant received the 1 Month Notice on September 13, 2016. The tenant had applied for dispute of the notice on September 20, 2016 (within

the required 10 day period). The tenant served the landlord with the notice of hearing package on September 23, 2016 via Canada Post Registered Mail (within the required 3 day period). The tenant also served the landlord with the same package at the building office mailbox on September 23, 2016. The landlord confirmed that he sent an email to the tenant cancelling the 1 Month Notice on September 26, 2016. I find that the tenant acted within the law and responded to the landlord's 1 Month Notice within the required 10 day period. The landlord notified the tenant of cancelling the 1 Month Notice on September 26, 2016 which is 13 days after being served the 1 Month Notice. As such, I find that the tenant is entitled to recovery of the \$100.00 filing fee.

The tenant is granted a monetary order of \$100.00 for recovery of the filing fee.

This order must be served upon the landlord. Should the landlord fail to comply with the order, the order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

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: November 16, 2016

Residential Tenancy Branch