



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

CNC; RR; OLC; FF

Introduction

This is the Tenants' Application to cancel a notice to end tenancy for cause; a rent reduction; an order that the Landlord comply with the Act, regulation or tenancy agreement; and to recover the cost of the filing fee from the Landlord.

Both parties signed into the Hearing and gave affirmed testimony.

The Tenants served the Landlord with their Notice of Hearing documents and copies of their documentary evidence by registered mail, sent on October 3, 2016

The Landlord served the Tenants with his documentary evidence by hand delivering the documents to the Tenants on October 21, 2016.

Preliminary Matter:

Rule 2.3 of the Rules of Procedure provides that claims made on the same application must be related to each other. I find that the Tenants' claims for a rent reduction and an order that the Landlord comply with the Act, regulation or tenancy agreement are not sufficiently related to the Tenants' claim to cancel the Notice to End Tenancy for Cause issued September 29, 2016 (the "Notice"). Therefore, I dismiss the Tenants' claims for a rent reduction and for an order that the Landlord comply, **with leave to reapply**.

Issue(s) to be Decided

Is the Notice a valid notice to end tenancy, or should it be cancelled?

Background and Evidence

The Landlord testified that he served the Tenants with the Notice on either September 29 or September 30, 2016. He was not certain of the date or time of service. The Tenant MS testified that he was served with the Notice on September 29, 2016.

A copy of the Notice was provided in evidence. The Notice gives the following reason for ending the tenancy:

- Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

The Landlord alleges that the Tenants have a dog and have rented out rooms, contrary to the terms of the tenancy agreement.

The Landlord provided the Tenants with a “breach letter” on September 17, 2016, and again on September 20, 2016. Copies of these letters were provided in evidence. The breach letters warn the Tenants that they are in breach of the tenancy agreement by allowing other occupants to live in the rental unit and by having a dog in the rental unit. The two letters are identical with one exception. The letter dated September 20, 2016, includes an additional paragraph, which states, “We ask that compliance to both breaches noted above be met by September 30, 2016. Notice of our concern has been given vocally to [MS], but herein lies the required written notice.”

The parties attempted to come to a settlement agreement with respect to the Notice, but were unsuccessful.

Analysis

When a tenant seeks to cancel a notice to end the tenancy, the onus is on the landlord to provide sufficient evidence that the tenancy should end for the reasons provided on the notice.

The Landlord gave the Tenants written notice to correct the breaches by September 30, 2016. The Notice to End Tenancy was issued on September 29, 2016, which is one day before the deadline for complying with the breach letter. Therefore, I find that the Landlords did not provide the Tenants with reasonable time to correct the breach before issuing the Notice and that the Notice to End Tenancy for Cause issued September 29, 2016, is not a valid notice to end the tenancy. I make no findings with respect to whether or not the Tenants have breached the tenancy agreement.

The Tenants have been successful in their application to cancel the Notice and I find that they are entitled to recover the cost of the filing fee from the Landlord. The Tenants may deduct that cost, **\$100.00**, from future rent due to the Landlord.

Conclusion

The Tenants' Application to cancel the Notice is **granted**. The One Month Notice to End Tenancy for Cause dated September 29, 2016, is cancelled and the tenancy will continue until it is ended in accordance with the provisions of the Act.

The Tenants may deduct **\$100.00 from future rent due to the Landlord**, in recovery of the cost of the filing fee.

The remainder of the Tenants' application is **dismissed, with leave to reapply**.

The Landlord is at liberty to issue another Notice to End Tenancy, if he so desires.

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 25, 2016

Residential Tenancy Branch