



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR FF

Introduction

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

- cancellation of the landlords' 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46;
- a determination regarding their dispute of an additional rent increase by the landlords pursuant to section 43; and
- authorization to recover the filing fee for this application, pursuant to section 72 .

The tenants' counsel and agent, EM, testified on behalf of the tenants in this hearing and was given full authority to do so by the tenants. Both parties were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another.

The landlords confirmed receipt of the tenants' application for dispute resolution hearing package ("Application"). In accordance with sections 89 of the *Act*, I find that the landlords were duly served with the Application. Both parties confirmed receipt of each other's evidence packages, and in accordance with section 88 of the *Act*, I find that both parties were duly served with each other's evidence packages.

EM testified that the landlords personally served the 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) to the tenants on November 15, 2016. The tenant's agent testified the tenants had no issue with the service of the 10 Day Notice, which stated an effective date of November 24, 2016 (corrected to November 25, 2016).. In accordance with section 88 of the *Act*, I find the tenants duly served with the 10 Day Notice.

Analysis

While I was considering the matter before me, a hearing was held before another Arbitrator on January 10, 2017, noted on the front page of this decision. At the January 10, 2017, the other Arbitrator reported in her decision of *** that the parties discussed the issues between them, turned their minds to compromise and achieved a resolution of their dispute which covered three matters, including this one.

In her decision, the other Arbitrator provided the following comments:

...This agreement is also intended to settle the issues raised in the hearing conducted on December 16, 2016, the file number of which is noted on the front page of this decision...

As this matter was heard and settled on January 10, 2017, I find that the current application that was before me on December 16, 2016, is *res judicata*, meaning the matter has already been conclusively decided and cannot be decided again. The tenants' application is therefore dismissed.

Conclusion

As this matter was settled on January 10, 2017 by another Arbitrator, the tenants' application is dismissed.

As the filing fee is a discretionary award given to a successful party after a full hearing on its merits, I dismiss the tenants' application to recover the \$100.00 filing fee.

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: January 16, 2017

Residential Tenancy Branch