



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW DECISION

Dispute Codes CNC, O

Introduction

On January 23, 2017, a conference call hearing was held to hear the Tenant's Application for Dispute Resolution (the "Application") requesting an order to cancel a 1 Month Notice to End Tenancy for Cause (the "1 Month Notice"), and for "Other" issues.

The Arbitrator who conducted the January 23, 2017 hearing considered the evidence of both parties and granted the Tenant's request to cancel the 1 Month Notice. The Arbitrator's full findings were then detailed in a Decision rendered on the same day.

However, the Landlord applied for a review of the January 23, 2017 Decision on the basis that it was obtained by fraud. On February 3, 2017, the Arbitrator who had conduct of the Landlord's review application determined that the Landlord had provided convincing evidence that the Tenant may have provided false and misleading testimony at the hearing and that the Tenant's evidence may have been a material factor that influenced the outcome of the Decision in the Tenant's favour.

In a Review Consideration Decision dated February 3, 2017, the reviewing Arbitrator determined that a new hearing should be held to hear the matter again in this review hearing. The Reviewing Arbitrator directed the Landlord to serve notice of this hearing and a copy of the Review Consideration Decision to the Tenant pursuant to Section 89(1) of the *Residential Tenancy Act* (the "Act"). That Notice of Review Hearing letter contained the new dial-in information for this review hearing and a courtesy copy was sent to the Tenant by the Residential Tenancy Branch.

The Tenant appeared for this review hearing and provided affirmed testimony. However, there was no appearance by the Landlord for this review hearing despite the telephone line being left open for ten minutes to allow the Landlord an opportunity to dial into this review hearing.

The Tenant testified that he was notified of this hearing by the Residential Tenancy Branch who sent him a copy of the Notice of Review Hearing letter. The Tenant testified that he was not served with anything from the Landlord.

Analysis & Conclusion

Rule 7.3 of the Residential Tenancy Branch Rules of Procedure states if a party or their agent fails to attend the hearing, the Arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss an Application, with or without leave to re-apply.

In addition, Section 81(4) of the Act states within three days of receiving a Review Consideration Decision, or within a different period specified by the Director, the review applicant, in this case the Landlord, must give the other party a copy of the Decision.

In this case, the Landlord failed to appear for this review hearing and present the merits of the evidence relied upon to obtain the Review Consideration Decision in order to overturn the January 23, 2017 Decision. Therefore, I find there is not sufficient evidence before me the Landlord complied with Sections 81(4) and 89(1) of the Act in serving the Tenant.

As the Landlord was granted this review hearing and failed to appear for it and serve the Tenant with the required documents, I find the original Decision made on January 23, 2017 is confirmed and is in full force and effect pursuant to Section 82(3) of the Act. The tenancy will resume until such time it is ended in accordance with the Act. The Parties are reminded of their rights and obligations under the Act.

This Review Decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act.

Dated: March 06, 2017

Residential Tenancy Branch

