



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL

Introduction

This hearing dealt with the tenants' application pursuant to section 49 of the *Residential Tenancy Act* (the "Act") for cancellation of the landlord's 2 Month Notice to End Tenancy for Landlord's Use of Property (the "2 Month Notice").

The landlord did not participate in the conference call hearing, which lasted approximately 10 minutes. The tenants attended the hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The tenants testified that on February 17, 2017 they forwarded the tenants' application for dispute resolution hearing package via registered mail to the landlord. The tenants provided a Canada Post receipt and tracking number as proof of service. Based on the testimony of the tenants and in accordance with sections 89 and 90 of the *Act*, I find that the landlord has been deemed served with the application February 22, 2017, the fifth day after its registered mailing.

Issue(s) to be Decided

Should the landlord's 2 Month Notice be cancelled?

Background and Evidence

The tenants testified that this tenancy began on March 15, 2016 for a fixed term until September 15, 2016 at which time the tenancy continued on a month-to-month basis. Rent in the amount of \$1,100.00 is payable on the first of each month. The tenants remitted \$500.00 for the security deposit at the start of the tenancy. The tenants continue to reside in the rental unit.

The tenants acknowledged personal receipt of the landlord's 2 Month Notice on January 30, 2017. The grounds to end the tenancy cited in that 2 Month Notice were;

- The rental unit will be occupied by the landlord or the landlord's close family member (parent, spouse or child; or the parent or child of that individual's spouse)

Analysis

Section 49 of the *Act* provides that upon receipt of a 2 Month Notice the tenant may, within fifteen days; dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. If the tenant files an application to dispute the notice within time, the landlord bears the burden to prove the grounds for the 2 Month Notice.

The tenants disputed the 2 Month Notice within 15 days. Specifically, they received the 2 Month Notice on January 30, 2017 and filed their application on February 13, 2017. Because the landlord did not attend the hearing I find she has failed to satisfy the burden of proof and I therefore allow the tenants' application to cancel the 2 Month Notice.

Conclusion

The tenants' application to cancel the 2 Month Notice is upheld. The tenancy continues until it is ended in accordance with the *Act*.

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: March 14, 2017

Residential Tenancy Branch