



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute codes CNQ FF

Introduction

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

- cancellation of the landlord's 2 Month Notice to End Tenancy Because the Tenant Does not Qualify for Subsidized Rental Unit pursuant to section 49.1;
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

The hearing was conducted by conference call. All named parties attended the hearing.

Issues

Should the landlord's 2 Month Notice be cancelled? If not, is the landlord entitled to an order of possession?

Is the tenant entitled to recover the filing fee for this application from the landlord?

Background & Evidence

The landlord issued a 2 Month Notice dated April 9, 2017 on the grounds the tenant does not qualify for the subsidized rental unit.

Both the landlord and the tenant confirmed that this rental unit was not a subsidized housing unit. Further, the landlord indicated that the 2 Month Notice was served to the tenant because she wanted the tenant to pay more for hydro.

Analysis

Section 49.1 of the Act contains provisions by which a landlord may end the tenancy of a subsidized rental unit, if provided for in the tenancy agreement, with two months' notice if the tenant or other occupant, as applicable, ceases to qualify for the rental unit. A tenant may dispute a Notice under this section by making an application for dispute

resolution within fifteen days after the date the tenant receives the notice. If the tenant makes such an application, the onus shifts to the landlord to justify, on a balance of probabilities, the reasons set out in the 2 Month Notice.

The rental unit is not subsidized housing therefore the 2 Month Notice was issued on valid grounds.

Accordingly, the 2 Month Notice to End Tenancy dated April 9, 2017, is hereby cancelled and of no force or effect.

As the tenant was successful in this application, I find that the tenant is entitled to recover the \$100.00 filing fee paid for this application from the landlord. **The tenant may reduce a future rent payment in the amount of \$100.00.**

Conclusion

I allow the tenant's application to cancel the landlord's 2 Month Notice, dated April 9, 2017, which is hereby cancelled and of no force or effect. This 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: June 06, 2017

Residential Tenancy Branch