



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL FF

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution, received at the Residential Tenancy Branch on June 6, 2017 (the "Application"). The Tenant applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- an order cancelling a Two Month Notice to End Tenancy for Landlord's Use of Property, dated May 24, 2017 (the "Two Month Notice"); and
- an order granting recovery of the filing fee.

The Tenant attended the hearing on her own behalf, as did the Landlord. Both parties provided a solemn affirmation at the beginning of the hearing.

The Tenant testified she served the Landlord with the Application package and a subsequent documentary evidence package by registered mail on June 6 and July 14, 2017, respectively. Canada Post registered mail receipts were submitted in support, and the Landlord acknowledged receipt. Pursuant to sections 88-90 of the *Act*, documents served by registered mail are deemed to be received five days later. I find the Landlord is deemed to have received the Application package and subsequent documentary evidence package on June 11 and July 19, 2017, respectively. The Landlord did not submit any documentary evidence in response to the Tenant's Application.

No issues were raised with respect to service and receipt of the above documents. The parties were provided an opportunity to present their evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all evidence and testimony before me that met the requirements of the Rules of Procedure; however, I refer to only the relevant facts and issues in this Decision.

Issues

1. Is the Tenant entitled to an order cancelling the Two Month Notice?
2. Is the Tenant entitled to an order granting recovery the filing fee?

Background and Evidence

The parties agreed the tenancy began on or about April 1, 2016. The Tenant pays rent in the amount of \$450.00 per month, which is due on the last day of each month. The Tenant confirmed she did not pay a security deposit to the Landlord as it was not required.

The Landlord issued the Two Month Notice on the following basis:

The Landlord has all necessary permits and approvals required by law to convert the rental unit to a non-residential use.

[Reproduced as written.]

A hand-written note on the Two Month Notice stated:

Room will be converted into a shared living room for other tenants.

[Reproduced as written.]

During the hearing, the Landlord acknowledged this is a residential use but submitted that he, as Landlord, should be able to decide how many tenants live in the rental property.

Analysis

Based on the documentary evidence and oral testimony provided during the hearing, and on a balance of probabilities, I find:

Section 49(6)(f) of the *Act* permits a landlord to end a tenancy if the landlord has all necessary permits and approvals required by law to convert the rental unit to a non-residential use. In this case, however, the Landlord's own testimony acknowledged that the proposed use is a residential use. He merely wished to reduce the number of tenants in the property and make the space that is currently occupied by the Tenant available for use by other tenants. That is a residential use. Accordingly, I find that the Two Month Notice is cancelled. The tenancy will continue until otherwise ended in accordance with the *Act*.

Having been successful, I find the Tenant is entitled to recover the \$100.00 filing fee, which I order may be deducted from a future rent payment.

Conclusion

I order that the Two Month Notice is cancelled. The tenancy will continue until otherwise ended in accordance with the *Act*.

The Tenant is entitled to recover the \$100.00 filing fee, which I order may be deducted from a future rent payment.

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: August 2, 2017

Residential Tenancy Branch