



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF, O

Introduction

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

- "other" remedy under the Act, regulation or tenancy agreement; and
- authorization to recover the filing fee for this application from the landlord, pursuant to section 72.

The tenants participated in the hearing, the landlord did not. The tenants submitted documentary evidence that the landlord was served notice of this application and this hearing by registered mail on August 16, 2017. Canada Post tracking information was submitted in the tenant's evidence. Based on the submissions of the tenants, I find the landlord was deemed served notice of this proceeding five days later, pursuant to section 90 of the *Act*. Therefore, I continued in the absence of the landlord.

Issues to be Decided

Are the tenants entitled to "other unspecified" remedy under the Act, regulation or tenancy agreement?

Are the tenants' entitled to recover the filing fee from the landlord for this application?

Background and Evidence

The tenants gave the following testimony. The tenancy began on or about August 24, 2014 and is ongoing. The tenants testified that they originally signed a one year fixed term tenancy and renewed at the expiration for an additional two years. Rent in the amount of \$2575.00 is payable in advance on the last day of each month. At the outset of the tenancy the landlord collected from the tenant a security deposit in the amount of \$1100.00. The tenants testified that their last fixed term tenancy ended on August 31, 2017. The tenants testified that the landlord wanted them to sign for another one year term. The tenants testified that they wish to have the tenancy continue on a month to

month basis. The tenants testified that despite trying to negotiate terms with the landlord, they have been unable to reach an agreement. The tenants testified that they are concerned if they wish to end the tenancy sooner than one year that the landlord may object and might cause difficulties. The tenants seek a determination from the Branch as to the status of their tenancy.

Analysis

The tenants have requested that the Branch determine the status of their tenancy agreement with their landlord “in case” of a dispute.

I find that the determination and decision requested by the tenants is not appropriate. This is not a situation where there has been any threat of the tenancy ending or the desire of the tenants to move out. Similarly, the landlord has not advanced a claim against the tenants in regards to the tenancy ending. The tenants advised that they have paid three months’ rent since the end of their last term without communication or incident from the landlord.

It is not appropriate for me to undertake a purely academic exercise and make a pre-emptive determination as to the merits of the tenant’s claims before they have been made. The tenant has described future hypothetical events that have not yet occurred and may never occur. I cannot give advice to the tenant as how to act during a tenancy.

Pursuant to section 59(5)(a) of the *Act*, I can refuse to accept an application if it does not disclose a dispute that may be determined. I find that the tenants have not identified any relief to which they are entitled on this application and this entire application, with the exception of the filing fee, is dismissed with leave to reapply.

As the tenants were unsuccessful in proceeding with this hearing, I find that they are not entitled to recover the \$100.00 application filing fee from the landlord.

Conclusion

The tenant’s application to recover the \$100.00 filing fee is dismissed without leave to reapply.

The remainder of the tenant’s application is dismissed with leave to reapply.

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: November 10, 2017

Residential Tenancy Branch