



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL, FF

Introduction

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

- cancellation of the landlords' 2 Month Notice to End Tenancy for Landlord's Use of Property ("2 Month Notice"), pursuant to section 49; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The two landlords did not attend this hearing, which lasted approximately 5 minutes. The tenant attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

At the outset of the hearing, the tenant informed me that he wanted to withdraw his application to cancel the landlords' 2 Month Notice but he wanted to recover his \$100.00 application filing fee. He said that the landlords revoked their 2 Month Notice and that is likely why they did not appear at this hearing, so he did not need to cancel the 2 Month Notice.

I notified the tenant that if he wanted to recover the application filing fee, he would be required to proceed with the hearing and prove his claim because the filing fee was a discretionary award issued after a hearing on the merits. I informed him that withdrawing his application and not proceeding with this hearing did not entitle him to recover his filing fee.

As I was attempting to explain the filing fee and the discretionary nature of it, the tenant repeatedly interrupted me, refused to allow me to speak, and became upset and agitated. When I asked him to let me know when he was finished speaking and would not interrupt me so I could speak he asked me "is the attitude necessary?" and "I'm so glad that with the new government, I hope they will be making changes to your department."

For the tenant's information, rule 6.10 of the Residential Tenancy Branch ("RTB") *Rules of Procedure* states the following:

6.10 Interruptions and inappropriate behaviour at the dispute resolution hearing

Disrupting the hearing will not be permitted. The arbitrator may give directions to any person in attendance at a hearing who is rude or hostile or acts inappropriately. A person who does not comply with the arbitrator's direction may be excluded from the dispute resolution hearing and the arbitrator may proceed in the absence of that excluded party.

I caution the tenant not to engage in the same rude, inappropriate and disruptive behaviour at any future hearings at the RTB, as this behaviour will not be tolerated and he may be excluded from future hearings. In that event, a decision will be made in the absence of the tenant.

At the end of the hearing, the tenant confirmed that he wanted to withdraw his entire application, including the application filing fee. He said "it's not about the money." I thanked the tenant for attending the hearing and ended the conference.

For the tenant's information, as I was attempting to provide this information during the hearing but the tenant would not allow me to speak without interruption: the filing fee is a discretionary award issued by an Arbitrator usually after a hearing is held and the applicant is successful on the merits of the application. As I was not required to make a decision on the merits of the tenant's application, I dismiss the tenant's application to recover the \$100.00 filing fee without leave to reapply. The tenant must bear the cost of this filing fee.

Conclusion

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

The tenant's application to cancel the landlords' 2 Month Notice is withdrawn.

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: December 13, 2017

Residential Tenancy Branch