



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

On November 3, 2017, the Tenant submitted an Application for Dispute Resolution asking that a 1 Month Notice to End Tenancy for Cause (“the Notice”) be cancelled, and to recover the filing fee for the Application.

The matter was set for a conference call hearing. The Tenants appeared at the hearing; however, the Landlord did not. The Tenants were assisted by an advocate.

The phone line remained open and was monitored for fifteen minutes and the Landlord did not call into the hearing during this time.

Issue to be Decided

- Should the 1 Month Notice to End Tenancy be cancelled?

Background and Evidence

The Tenants testified that the Landlord served them with the 1 Month Notice to End Tenancy for Cause by placing it under their door.

The Tenants disputed the 1 Month Notice and testified that they served the Notice of Hearing to the Landlord using Registered Mail on November 10, 2017. The Tenants provided the tracking number of the registered mail receipt.

Section 90 of the Act states that a document served by registered mail is deemed to be received on the 5th day after it is mailed.

Analysis

In the matter before me, the Landlord has the onus of proof to prove that the Notice is valid. I find that the Landlord was properly served with the Notice of Hearing and failed to attend the hearing to prove the allegation within the 1 Month Notice.

Therefore, as the Landlord did not attend the hearing by 9:15 AM, I cancel the 1 Month Notice to End Tenancy For Cause, dated October 20, 2017.

I Order the tenancy to continue until ended in accordance with the Act.

Section 72 of the *Act* gives me authority to order the repayment of a fee for an application for dispute resolution. As the Tenants were successful in their application, I order the Landlord to repay the \$100.00 fee that the Tenants paid to make application for dispute resolution. The Tenants may deduct the amount of \$100.00 from one future rent payment.

Conclusion

The Tenants' application is successful. The 1 Month Notice issued by the Landlord dated October 20, 2017, is cancelled.

The tenancy will continue until 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: January 23, 2018

Residential Tenancy Branch