



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding WOODBRIDGE DEVELOPMENTS (BAYCREST) LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNL, MNDC, FF

Introduction

The tenants apply to cancel a two month Notice to End Tenancy dated March 27, 2018. They also seek a monetary order in the nature of a fine against the landlord and for damages for emotional distress.

The respondent landlord did not attend the hearing within twenty minutes after its scheduled start time at 11:00 o'clock a.m. on May 8, 2018, nor did it file material. The teleconference hearing connection remained open during that time in order to enable the parties to call into the teleconference hearing. The call-in numbers and participant codes provided in the Notice of Hearing were confirmed as correct. The teleconference system audio console confirmed that the applicant tenants and this arbitrator were the only ones who had called into this teleconference during that period.

The tenants' advocate showed that the landlord was served with the Notice of this hearing by registered mail (Canada Post tracking number shown on cover page of this decision) and Canada Post records show that the mail was sent April 5, 2018 and received by the respondent on April 9. Ms. C., the tenant's advocate, confirms that the person A.D. who signed for the mail was the same person who had signed for previous mail in earlier hearings which the landlord had attended.

On this evidence I find that the landlord has been duly served.

On applications to challenge eviction notices, the initial burden of proof falls to the landlord to demonstrate that there were good grounds for the notice. In this case the landlord, by not attending, has failed to satisfy that burden and the two month Notice to End Tenancy dated March 27, 2018 is hereby cancelled.

This is the third hearing the tenants have attended regard three earlier Notices, all given based on the landlord's intention to demolish this rental unit, a house in which the tenants have lived since 1999. In each case the landlord has failed to show that it possessed "all necessary permits and approvals" to demolish the premises, as required by s. 49 of the *Residential Tenancy Act* (the "*Act*").

On that basis the tenants apply for a fine and damages against the landlord for what they consider to be highhanded or malicious acts.

The imposing of fines is a power left to the Director of the Residential Tenancy Branch under Part 5.1 of the *Act* and not an arbitrator. The tenants were referred to the Residential Tenancy Branch in that regard.

The tenants' claim for damages based on the landlord's allegedly highhanded conduct is a claim for aggravated damages. Residential Tenancy Policy Guideline 16, "Compensation for Damage or Loss" requires that such a claim be specifically pleaded or stated in the application. With this knowledge in mind, the tenants withdrew their damages claim. They are granted any leave they might require to apply or re-apply for aggravated damages or any other, similar relief

I award the tenants recovery of the \$100.00 filing fee paid for this application and I authorize them to reduce their next rent due by \$100.00 in full satisfaction of the fee.

This decision was rendered orally at hearing and 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: May 08, 2018

Residential Tenancy Branch