



Dispute Resolution Services

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Residential Tenancy Branch Office of Housing and Construction Standards

A matter regarding Weidner Investments
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNR; FF

Introduction

This is the Tenants' Application for Dispute Resolution made March 1, 2018, seeking to cancel a Notice to End Tenancy for Unpaid Rent or Utilities; and to recover the cost of the filing fee from the Landlord.

At the outset of the Hearing, it was determined that the Tenants have moved out of the rental unit. Therefore, the tenancy is over and the Tenant's application to cancel the Notice to End Tenancy is not necessary. This portion of their application is dismissed.

The Tenant JK stated that she wants to recover the cost of the filing fee from the Landlord.

Issue(s) to be Decided

Are the Tenants entitled to recover the cost of the filing fee from the Landlord?

Background and Evidence

The Landlord issued a Notice to End Tenancy for unpaid utilities in the amount of \$52.20 on February 22, 2018, and posted it to the Tenant's door on February 22, 2018. The utilities were with respect to a water bill that was paid by the Tenants to the City. The Landlord's agent stated that she asked Tenants to pay the Landlord directly rather than pay the City, but that the Tenants paid the City directly.

The Tenant stated that she showed the Landlord proof that the Tenants paid the water bill to the City and that the payment was processed on January 22, 2018. The Tenant stated that the document shows that the payment was put on the Landlord's account on January 22, 2018; however, the City made an error and credited the wrong account.

The Landlord's agent stated that they agreed with the Tenants that they would wait until the credit showed up on the Landlord's account before they issued a Notice to End Tenancy, but when a new bill was rendered on February 10, 2018, the Tenants' payment was not shown as a credit so the Landlord issued the Notice.

The Landlord's agent stated that she did not contact the Tenants again with respect to the utility bill before issuing the Notice because "there were only two people in the office and we had too many tenants". The Landlord's agent agreed that the error was made by the City and that the Tenants had paid the utility bill on time.

Analysis

When a tenant receives a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, that tenant must either pay the outstanding amount shown on the Notice, or make an Application to dispute the Notice within 5 days of receipt of the Notice. Otherwise, the tenant is deemed to have accepted that the tenancy is over and must move out of the rental unit on the effective date of the Notice. In this case the Notice was effective on March 7, 2018.

I find that the Tenants were required to make their Application to cancel the Notice or risk being evicted on two days' notice. I also find that the Notice was not a valid notice to end the tenancy because the Tenants had paid the water bill.

Therefore, I find that the Tenants are entitled to recover the cost of the \$100.00 filing fee from the Landlord.

Conclusion

The Notice to End Tenancy for Unpaid Rent or Utilities issued on February 22, 2018, is not a valid notice to end the tenancy.

The Tenants are hereby provided with a Monetary Order in the amount of \$100.00 for service upon the Landlord. This Order may be enforced in the Provincial Court of British Columbia (Small Claims Court).

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: May 23, 2018

Residential Tenancy Branch