



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, FF

Introduction

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

- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, dated March 2, 2018 ("10 Day Notice"), pursuant to section 46; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The landlord and the two tenants attended the hearing and were each given a full opportunity to be heard and to present submissions.

At the outset of the hearing, the landlord stated that her 10 Day Notice was cancelled and she was not pursuing an eviction of the tenants. The tenants stated they had not cancelled this hearing, even though they knew of the above information, because they wanted to recover their \$100.00 filing fee paid for this application. They said that the landlord should not have issued the 10 Day Notice because they were entitled to deduct money from rent due to a Residential Tenancy Branch monetary order issued at a previous hearing. The landlord stated that she appealed the order and gave the tenants documentary evidence that they could not withhold rent because of the appeal process. The landlord refused to reimburse the tenants for this filing fee. Therefore, I notified both parties that I would make a decision about the filing fee.

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 tenants' application, since both parties agreed that the 10 Day Notice was cancelled prior to the hearing, I dismiss the tenants' application to recover the \$100.00 filing fee without leave to reapply. The tenants must bear the cost of this filing fee.

Conclusion

The landlord's 10 Day Notice, dated March 2, 2018, is cancelled and of no force or effect. This tenancy continues until it is ended in accordance with the *Act*.

The tenants' application to recover the \$100.00 application filing fee is dismissed without 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: May 17, 2018

Residential Tenancy Branch