



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL, FFT

Introduction

This decision pertains to the Tenant's application for dispute resolution made on April 23, 2018, under the *Residential Tenancy Act* (the "Act"). The Tenant seeks the following relief:

1. a cancellation of the Landlord's Two Month Notice to End Tenancy for Landlord Use of Property (the "Notice"); and,
2. a monetary order granting recovery of the filing fee.

The Tenant attended the hearing before me, and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The Landlord did not attend.

The Tenant testified that they served the Notice of Dispute Resolution Proceeding package on the Landlord in-person on April 26, 2018, at approximately 7:30 PM. The Tenant further testified that this service was witnessed by the Tenant's daughter and by the next-door neighbour. I am satisfied that the Landlord was served pursuant to section 89 (1) (a) of the Act.

While I have reviewed all oral and documentary evidence submitted, only relevant evidence pertaining to the issues of this application will be considered in my decision.

Issues to be Decided

1. Is the Tenant entitled to a cancellation of the Landlord's Notice?
2. Is the Tenant entitled to a monetary order for recovery of the filing fee?

Background and Evidence

The hearing commenced at 1:30 PM. After explaining the hearing process, affirming the Tenant, and reviewing matters of service, the hearing concluded at 1:44 PM.

Analysis

Where a tenant applies to dispute a Two Month Notice to End Tenancy, the onus is on the landlord to prove, on a balance of probabilities, the grounds on which the notice is based. The Landlord did not appear at this hearing to prove their cause as alleged in the notice.

Therefore, the Landlord's Notice, dated April 9, 2018, is cancelled and of no force or effect. The Landlord is not entitled to an order of possession under section 55 of the Act. This tenancy will continue until it is ended in accordance with the Act.

As the Tenant has been successful in their application, I find that they are entitled to recover the filing fee. The Tenant is hereby permitted to a one-time deduction of \$100.00 from their next rent payment in satisfaction of this award.

Conclusion

The Landlords' Notice, dated April 9, 2018, is cancelled and of no force or effect. The tenancy continues until it is ended in accordance with the Act.

The Tenant is entitled to recover the \$100.00 filing fee and are hereby permitted to a one-time deduction of \$100.00 from their next rent payment in satisfaction of this award.

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 18, 2018

Residential Tenancy Branch