



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, CNL, DRI, FFT

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution filed by the Applicant May 10, 2018 (the “Application”). The Applicant disputed a One Month Notice to End Tenancy for Cause and a rent increase above the allowable amount. The Applicant sought reimbursement for the filing fee.

The Applicant filed an Amendment to the Application May 18, 2018 (the “Amendment”). The Amendment added the “site/unit number” of the rental unit. The Applicant also sought to dispute a Two Month Notice to End Tenancy for Landlord’s Use of Property.

The Respondent appeared for the hearing at 9:30 a.m. as scheduled. The Applicant did not attend the hearing.

The Respondent advised me of the following. He is not a landlord. He is in a tenant-landlord relationship with the actual landlord. The Applicant is a friend he rented the unit out to and is on a roommate agreement. The Applicant has vacated the unit.

The Respondent took the position that the *Residential Tenancy Act* (the “Act”) does not apply to this matter. He said he is not seeking to enforce any notices under the *Act*.

I waited 12 minutes, until 9:42 a.m., to allow the Applicant to participate in this hearing. At 9:41 a.m., I confirmed from the teleconference system that the Respondent and I were the only persons who had called into this teleconference. I confirmed the correct call-in number and participant code had been provided in the Notice of Hearing.

Rule 7.3 of the Rules of Procedure (the “Rules”) states that, if a party does not attend the hearing, “the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply”.

Rule 6.6 of the Rules states:

...The onus to prove their case is on the person making the claim. In most circumstances this is the person making the application. However, in some situations the arbitrator may determine the onus of proof is on the other party. For example, the landlord must prove the reason they wish to end the tenancy when the tenant applies to cancel a Notice to End Tenancy.

In relation to the Applicant's dispute of the rent increase, the Applicant failed to attend the hearing and present evidence in this regard. In the absence of evidence from the Applicant, the Applicant has failed to prove her claim and this aspect of the Application is dismissed without leave to re-apply.

In relation to the Applicant's dispute of the notices to end tenancy, the onus is on a landlord to prove the reason for the notices. Here, the Respondent took the position that the *Act* does not apply to this matter and did not seek to enforce notices under the *Act*. The Applicant did not appear to provide evidence about her dispute of the notices. In the circumstances, the Applicant's dispute of the notices is dismissed without leave to re-apply.

I decline to award the Applicant reimbursement for the filing fee given the Applicant did not attend the hearing.

I note that I make no findings regarding whether the *Act* applies to this matter. The Applicant did not attend the hearing to provide evidence to support her Application. The Respondent attended the hearing but did not seek to enforce any notices under the *Act*. In these circumstances, the Application is dismissed without leave to re-apply and there is no need to decide whether the *Act* applies or not.

Conclusion

The Application is dismissed without leave to re-apply.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*.

Dated: June 22, 2018

Residential Tenancy Branch