



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

CNL, FFT

Introduction

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

- cancel the landlord's 2 Month Notice to End Tenancy for Landlord's Use of Property (the 2 Month Notice) pursuant to section 47;
- and recover the filing fee for the application from the landlord pursuant to section 72.

The landlord did not attend this hearing, which lasted approximately 10 minutes. The tenant attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The tenant testified that they received a 2 Month Notice dated May 6, 2018 on or about that date. The tenant testified that they served the tenant's application for dispute resolution hearing package on the landlord by registered mail on May 17, 2018. The tenant provided a Canada Post tracking number as evidence of service. Based on the undisputed testimony of the tenant and in accordance with sections 88, 89 and 90 of the *Act*, I find that the landlord was deemed served with the tenant's application package on May 22, 2018, five days after mailing.

Issue(s) to be Decided

Should the 2 Month Notice be cancelled?

Is the tenant entitled to recover the filing fee for their application?

Background and Evidence

The monthly rent is \$3,220.00 for this periodic tenancy. The tenant acknowledged receipt of the 2 Month Notice. The tenants testified that they filed an application for dispute resolution on May 17, 2018 and served it on the landlord by registered mail on or about that date.

Analysis

Section 49 of the *Act* provides that upon receipt of a notice to end tenancy for landlord's use of property the tenant may, within fifteen days, dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch.

I accept the undisputed evidence that the 2 Month Notice was received on or about May 6, 2018 and the tenant filed an application for dispute resolution on May 17, 2018. I find that the tenant was within the time limit provided by the *Act* to dispute the 2 Month Notice.

If the tenant files an application to dispute the notice, the landlord bears the burden to prove the grounds for the 2 Month Notice. Because the landlord did not attend the hearing, I find the landlord has failed to satisfy the burden of proof and I therefore allow the tenant's application to cancel the 2 Month Notice.

As the tenant's application was successful the tenant is entitled to recover the filing fee for their application.

Conclusion

The tenant's application to cancel the 2 Month Notice is allowed. The Notice is of no continuing force or effect. This tenancy continues until ended in accordance with the *Act*.

I issue a monetary award in the tenant's favour in the amount of \$100.00. The landlord must be served with this Order as soon as possible. Should the landlord fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that 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: July 16, 2018

Residential Tenancy Branch