



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, FFT

Introduction

This hearing dealt with an Application for Dispute Resolution by the Tenant filed under the Residential Tenancy Act (the “Act”), to cancel One Month Notice to End Tenancy for Cause, (the “Notice”) issued on May 17, 2018.

The Tenant attended the hearing. As the Landlord did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The Residential Tenancy Branch Rules of Procedure states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing. The Tenant testified the Application for Dispute Resolution and Notice of Hearing had been personally served to the Landlord by the Tenant on May 31, 2018. I find that the Landlord has been duly served in accordance with the Act.

The Tenant appeared gave testimony and was provided with the opportunity to present his evidence orally and in written, documentary form, and make submissions at the hearing.

Issue(s) to be Decided

- Should the Notice issued on May 17, 2018, be cancelled?
- Is the Tenant entitled to the recovery of his filing fee for this hearing?

Background and Evidence

The Tenant testified that the tenancy began on April 7, 2018, as a one-year fixed term tenancy that rolled into a month to month after the first year. Rent in the amount of

\$1,250.00 was to be paid by the first day of each month and at the outset of the tenancy, the Tenant paid a \$625.00 security deposit. The Tenant provided a copy of the tenancy agreement into documentary evidence.

The Notice was served on the Tenant on May 17, 2018 indicating that the Tenant is required to vacate the rental unit on June 20, 2018.

The reason stated in the Notice was that the tenant has:

- significantly interfered with or unreasonably disturbed another occupant or the landlord;

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

In a case where a tenant has applied to cancel a Notice, Rule 11.1 of the Residential Tenancy Branch Rules of Procedure requires the landlord to provide their evidence submission first, as the landlord has the burden of proving cause sufficient to terminate the tenancy for the reasons given on the Notice.

This matter was set for hearing by telephone conference call at 9:00 A.M. on this date. The line remained open while the phone system was monitored for ten minutes and the only participant who called into the hearing during this time was the Tenant.

Since the Landlord did not attend the hearing by 9:10 A.M to present any evidence or submission in support of the Notice, and the burden is on the landlord to prove the Notice was issued for the reasons stated. I find that the Landlord has failed to show cause to end the tenancy.

Therefore, I grant the Tenant's application to cancel the Notice issued on May 17, 2018, and the Notice has no force or effect. The tenancy will continue until legally ended in accordance with the Act.

Section 72 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. As the Tenant was successful in his application to dispute the Notice, I find that the Tenant is entitled to recover the \$100.00 filing fee paid

for his application. The Tenant is allowed to take a one-time deduction of \$100.00, from his next month's rent.

Conclusion

The Tenant's application to cancel the Notice is granted. The tenancy will continue until legally ended in accordance with the Act.

I grant the Tenant permission to take a one-time deduction of \$100.00, from his next month's rent.

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 19, 2018

Residential Tenancy Branch