



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL-4M, FFT

Introduction

This hearing dealt with an Application for Dispute Resolution by the Tenant filed under the Residential Tenancy Act (the “Act”), to cancel Four Month Notice to End Tenancy for Demolition, Renovation, Repair or Conversion of the Rental Unit, (the “Notice”) dated July 27, 2018.

The Tenant attended the hearing. As the Landlord did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered. Section 59 of the *Act* and 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 that the documents were sent by registered mail on August 13, 2018, a Canada post tracking number was provided as evidence of service. Section 90 of the *Act* determines that a document served in this manner is deemed to have been served five days later. I find that the Landlord had been duly served in accordance with the *Act*.

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

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this decision.

Issues to be Decided

- Should the Notice dated on July 27, 2018, be cancelled?

Background and Evidence

The Notice was served on the Tenant indicating that the Tenant is required to vacate the rental unit on November 30, 2018.

The reason stated in the Notice was that the Landlord intends to:

- Perform renovations or repairs that are so extensive that the rental unit must be vacant.

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 9:30 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 9:41 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 July 27, 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 the 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 Tenants permission to take a one-time deduction of \$100.00, from their 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: September 28, 2018

Residential Tenancy Branch