



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant filed under the Residential Tenancy Act (the “Act”), to cancel a Four Month Notice to End Tenancy for Demolition, Renovations or Conversion of Rental Unit, (the “Notice”) issued on September 27, 2018, and to recover the filing fee from the landlord.

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 were sent by registered mail on October 25, 2018, a Canada post tracking number was provided as evidence of service. The Canada post history shows the package was successfully delivered on October 30, 2018. The tracking number has been noted on the covering page of this decision.

I find that the landlord has been duly served in accordance with the Act.

The tenant appeared gave testimony and were provided the opportunity to present their evidence orally and in written, documentary form, and make submissions at the hearing.

Issue to be Decided

Should the Notice be cancelled?

Background and Evidence

The Notice was served on the tenant indicating that the tenant is required to vacate the rental unit on March 30, 2019.

The reason stated in the Notice was that:

- I am ending your tenancy because I am going to perform renovations or repairs that are so extensive that the rental unit must be vacant.

The landlord did not attend to provide their evidence in support of the Notice.

Analysis

Based on the above, the testimony, and evidence, 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 require 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 11:00 A.M. on this date. The line remained open while the phone system was monitored for ten minutes and the only participants who called into the hearing during this time were the tenant, the tenant's roommate, and the tenant's advocate.

Since the landlord did not attend the hearing by 11:10 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 the Notice was issued for the reason stated.

Therefore, I grant the tenant's application to cancel the Notice issued on October 27, 2018, and the Notice has no force or effect. The tenancy will continue until legally ended in accordance with the Act.

As the tenant was successful with their application, the tenant is entitled to recover the filing fee from the landlord. Therefore, at the hearing, I authorized the tenant to a

onetime rent deduct of \$100.00 from December 2018, rent payable to the landlord to satisfy this award.

Conclusion

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

The tenant is authorized a onetime rent reduction of \$100.00 from December 2018, rent payable to the landlord to recover the cost of the filing fee from the landlord.

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: November 29, 2018

Residential Tenancy Branch