



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the *Act*) for cancellation of the landlord's 2 Month Notice to End Tenancy for Landlord's Use of Property (the 2 Month Notice) pursuant to section 49.

The landlord did not attend this hearing, although I left the teleconference hearing connection open until 11:08 a.m. in order to enable the landlord to call into this teleconference hearing scheduled for 11:00 a.m. The tenant attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed from the online teleconference system that the tenant and I were the only ones who had called into this teleconference. This was not surprising as the tenant said that she had decided some time ago to not proceed with this hearing and had never served the Notice of Hearing to the landlord.

Preliminary Matter

Although the tenant had attempted to have this hearing cancelled beforehand, the tenant subsequently learned that the Residential Tenancy Branch's (the RTB's) Rules of Procedure require that any attempt by a tenant to cancel a hearing of a matter involving a Notice to End Tenancy can only be done with the landlord's written permission. In this case, the tenant said that they had reached an amiable agreement with the landlord whereby this tenancy would end and that she was in the process of preparing to vacate the rental premises. The tenant said that the landlord has granted a short extension of time to enable her to vacate the rental unit and that she was quite satisfied with this outcome. Since the tenant recognized shortly after commencing this application that

there was no need to proceed with any formal hearing of this matter, she never notified the landlord of her original application as she was intending to have it cancelled. The landlord had never been alerted to the existence of her original application. For that reason, the tenant did not wish to contact the landlord about this matter to seek written authorization to have her application withdrawn.

As the hearing could not be cancelled without the Respondent's written agreement, the tenant believed that the simplest way to set aside her original application was to call into the hearing, advise the Arbitrator that she no longer wished to proceed with this matter and have her original application withdrawn. Under these circumstances, the tenant attended the hearing and asked that her application be withdrawn. Since the tenant did not wish to bother the landlord with a matter that has been resolved some time ago, she asked that no written decision be issued or sent to the landlord who had never been notified of her original application, which she now realized was unnecessary.

While the tenant had hoped that the RTB would be able to cancel the hearing without issuing a formal decision, this was not possible. Once an application has been submitted for a matter involving a Notice to End Tenancy, the RTB is bound by a duty of fairness to report the outcome of any hearing that does occur to both parties to the application. Since a hearing occurred, in which the tenant withdrew her application, I have no alternative but to provide a copy of this decision to both parties to the tenant's original application, even though the landlord was never served with the Notice of Hearing by the tenant. However, in sending this decision to both parties, I would like to assure the landlord that the tenant did everything in her power to have this hearing cancelled beforehand without having to involve the landlord in this now resolved matter.

Conclusion

The tenant's application is hereby withdrawn. 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: May 31, 2019

Residential Tenancy Branch