



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

CNL FFT OLC

Introduction

This hearing dealt with the tenants' 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;
- seeking an order that the landlord comply with the Act, regulations or tenancy agreement pursuant to section 62; and
- authorization to recover the filing fee from the landlord pursuant to section 72.

The landlord did not attend this hearing, which lasted approximately 15 minutes. The phone line remained open for the duration of the hearing and the Notice of Application was confirmed to contain the correct hearing codes. The tenants attended the hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The tenants testified that they received a 2 Month Notice on April 30, 2019. The tenants testified that they served the tenants' application for dispute resolution hearing package on the landlord personally on May 5, 2019. Based on the testimony I find that the landlord was served with the tenants' materials in accordance with sections 88 and 89 of the Act.

Issue(s) to be Decided

Should the 2 Month Notice be cancelled? If not is the landlord entitled to an Order of Possession?

Should the landlord be ordered to comply with the Act, regulations or tenancy agreement?

Are the tenants entitled to recover their filing fee from the landlord?

Background and Evidence

The tenants acknowledged receipt of the 2 Month Notice. The tenants testified that they filed an application for dispute resolution on May 3, 2019 and served it on the landlord in person on May 5, 2019.

The tenants said that the monthly rent for this tenancy is \$220.00 payable on the first of each month.

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 April 30, 2019 and the tenants filed an application for dispute resolution on May 3, 2019. I find that the tenants were 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 tenants' application to cancel the 2 Month Notice.

As the tenants were successful in their application they are entitled to recover the filing fee. As this tenancy is continuing I allow the tenants to satisfy this monetary award by making a one-time deduction of \$100.00 from their next scheduled rent payment.

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*.

The tenants may make a one-time deduction of \$100.00 from their next scheduled rent payment.

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: June 13, 2019

Residential Tenancy Branch