



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL, CNR, FFT

Introduction

This teleconference hearing was scheduled in response to an application by the Tenant under the *Residential Tenancy Act* (the “Act”) to cancel a Two Month Notice to End Tenancy for Landlord’s Use of Property (the “Two Month Notice”), to cancel a 10 Day Notice to End Tenancy for Unpaid Rent (the “10 Day Notice”), and for the recovery of the filing fee paid for the Application for Dispute Resolution.

The Tenant and both Landlords were present for the teleconference hearing. The parties were affirmed to be truthful in their testimony. The Landlords confirmed receipt of the Notice of Dispute Resolution Proceeding package and a copy of the Tenant’s evidence. The Tenant confirmed receipt of a copy of the Landlord’s evidence. Neither party brought up any issues regarding service.

As the Landlord’s evidence indicated that both notices to end tenancy had been cancelled, this was discussed at the outset of the hearing and will be addressed below.

Preliminary Matters

Two Landlords were present for the teleconference hearing and confirmed that they should both be named as respondents/Landlords in this matter. As only one Landlord was named on the Application for Dispute Resolution, the application was amended to add a second respondent/Landlord. This amendment was made pursuant to Section 64(3)(c) of the *Act*.

Issues to be Decided

Should the Two Month Notice to End Tenancy for Landlord's Use of Property be cancelled?

If the Two Month Notice to End Tenancy for Landlord's Use of Property is upheld, is the Landlord entitled to an Order of Possession?

Should the 10 Day Notice to End Tenancy for Unpaid Rent be cancelled?

If the 10 Day Notice to End Tenancy for Unpaid Rent is upheld, is the Landlord entitled to an Order of Possession?

Should the Tenant be awarded the recovery of the filing fee paid for the Application for Dispute Resolution?

Background and Evidence

The Landlords testified that the Two Month Notice had been withdrawn and that the 10 Day Notice was cancelled with the payment of rent within 5 days. The Landlords stated that they provided written permission for the Tenant to cancel the hearing but that she did not do so. In a copy of a text message dated June 18, 2019 that was submitted into evidence the Landlords notified the Tenant that they are withdrawing the Two Month Notice and will provide written permission for the Tenant to cancel the hearing.

The Tenant testified that the 10 Day Notice was not valid in the first place as she did not owe rent at the time. However, she stated that she paid rent through partial payments and that the final payment was made within 5 days of receiving the 10 Day Notice, thus cancelling the notice.

The Landlords confirmed that they are not seeking an Order of Possession on either notice to end tenancy.

Analysis

I accept the testimony of the Landlords that both the Two Month Notice and the 10 Day Notice have been cancelled or withdrawn and therefore accept that they are not seeking an Order of Possession on either notice.

As such, I do not find it necessary to establish the merits of either notice and instead find that the parties are no longer in dispute over the notices. Therefore, the Tenant's application to dispute the 10 Day Notice and to dispute the Two Month Notice is dismissed, without leave to reapply.

Pursuant to Section 72 of the *Act*, I award the Tenant the recovery of the filing fee paid for the application in the amount of \$100.00. Although both notices have since been cancelled or withdrawn, I find that the Tenant took reasonable steps to dispute the Two Month Notice through the application filed on June 5, 2019. Through the evidence submitted by the Landlord, I find that the Two Month Notice was withdrawn after the Tenant had already applied to dispute the notice. Therefore, I find that the Tenant is entitled to the recovery of the filing fee. The Tenant may deduct \$100.00 from the next monthly rent payment as recovery of this fee.

Conclusion

The Two Month Notice and 10 Day Notice have been cancelled or withdrawn and are therefore no longer in dispute. The Application for Dispute Resolution to dispute the notices is dismissed, without leave to reapply.

Pursuant to Section 72 of the *Act*, the Tenant may deduct \$100.00 from the next monthly rent payment as recovery of the filing fee paid for the application.

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 25, 2019

Residential Tenancy Branch