



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, OLC, LRE, FF

Introduction

This hearing was convened in response to an application dated June 24, 2019 and an amended application dated July 31, 2019 by the Tenant pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order cancelling a notice to end tenancy - Section 47;
2. An Order for the Landlord’s compliance - Section 62;
3. An Order restricting the Landlord’s entry - Section 70; and
4. An Order to recover the filing fee for this application - Section 72.

The Landlord did not attend the hearing. I accept the Tenant’s evidence that the Landlord was served with the application for dispute resolution, notice of hearing and all evidence (the “Materials”) by registered mail on June 27, 2019 in accordance with Section 89 of the Act. Postal evidence indicates that the mail was delivered. Section 90 of the Act provides that a document served in accordance with section 89 of the Act is deemed to be received if given or served by mail, on the 5th day after it is mailed. Given the evidence of registered mail I find that the Landlord is deemed to have received the Materials on July 2, 2019. The Tenant was given full opportunity to be heard, to present evidence and to make submissions.

Preliminary Matters

The Tenant withdraws its claim for the Landlord's compliance. It is noted that the claim to restrict the Landlord's entry is not related to the primary matter of whether or not the tenancy continues.

Rule 2.3 of the Residential Tenancy Branch (the "RTB") Rules of Procedure provides that claims made in an application must be related to each other and unrelated claims may be dismissed with or without leave to reapply. As the claim in relation to the Landlord's entry is not related to the matter of whether the tenancy will end, I dismiss the claim with leave to reapply.

Issue(s) to be Decided

Is the Tenant entitled to a cancellation of the notice to end tenancy?

Is the Tenant entitled to recovery of the filing fee?

Background and Evidence

The tenancy under written agreement started May 4, 2019. Rent of \$1,430.00 is payable on the first day of each month. On June 15, 2019 the Tenant was given a one month notice to end tenancy for cause (the "Notice"). The Notice does not contain any details on the reasons for the Notice and nothing was attached to the Notice setting out any details. The Tenant is not aware of the reason for the issuance of the Notice. The Tenant did not receive any evidence from the Landlord and it is noted that the Landlord provided the RTB with its evidence only 6 days before the hearing. The person named as landlord in this application is not the person named as landlord in the tenancy agreement but is the agent for the Landlord having served the Notice and being named as Landlord in the Notice.

Analysis

Where a tenant disputed a notice to end tenancy issued by a landlord, the landlord carries the burden of proof that the notice to end tenancy is valid for the stated reasons.

Section 52(d) and (e) of the Act provides that in order to be effective a notice to end a tenancy must be in writing and must state the grounds for ending the tenancy and when given by a landlord, be in the approved form. The approved form requires details of the stated reasons to be provided either in the form itself or attached to the notice to end tenancy. Given that the Landlord did not attend the hearing to provide evidence on the validity of the reasons set out on the Notice, as the Notice does not include any details either within the Notice itself or attached to the Notice for the reasons set out on the Notice and as the Tenant does not know of any reason for the Notice I find that the Notice is not valid. I therefore find that the Tenant is entitled to the cancellation of the Notice. The tenancy continues. As the Tenant has been successful with its application I find that the Tenant is entitled to recovery of the \$100.00 filing fee and the Tenant may deduct this amount from future rent payable.

Conclusion

The Notice is cancelled, and the tenancy continues

I grant the Tenant an order under Section 67 of the Act for **\$100.00**. If necessary, this order may be filed in the Small Claims Court and enforced as an order of that Court.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act.

Dated: August 15, 2019

Residential Tenancy Branch