



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute codes CNC FF

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- cancellation of a One Month Notice to End Tenancy For Cause (the One Month Notice), pursuant to section 47;
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

The landlord did not attend this hearing, although I waited until 9:45 a.m. to enable the landlord to connect with this teleconference hearing scheduled for 9:30 a.m. The tenant and his advocate attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions.

The tenant's advocate testified that on September 26, 2019, he sent a copy of the Application for Dispute Resolution and Notice of Hearing to the landlord by registered mail. A registered mail tracking number or receipt was not provided in support of service. The tenants advocate testified that he had the receipt in his file but not with him at the time of the hearing. The tenant's advocate testified that the landlord received the mail and in support of the landlord having knowledge of the hearing, referred to e-mail correspondence on file with the landlord.

The tenant's advocate also submits that the landlord since sold the property in question and the advocate made numerous attempts to contact and serve the new owners but he was not provided with their correct contact information.

Based on the above evidence, I am satisfied that the landlord was served with the Application for Dispute Resolution and Notice of Dispute Resolution Hearing pursuant to sections 89 & 90 of the Act. The hearing proceeded in the absence of the landlord.

Issues

Should the landlord's One Month Notice be cancelled? If not, is the landlord entitled to an order of possession?

Is the tenant entitled to recover the filing fee for this application from the landlord?

Background and Evidence

The One Month Notice subject to this dispute is dated September 18, 2019. The tenant's application to cancel the One Month Notice was filed on September 23, 2019 within the time period permitted under the Act.

Analysis

Section 47 of the Act contains provisions by which a landlord may end a tenancy for cause by giving notice to end tenancy. Pursuant to section 47(4) of the Act, a tenant may dispute a One Month Notice by making an application for dispute resolution within ten days after the date the tenant received the notice. If the tenant makes such an application, the onus shifts to the landlord to justify, on a balance of probabilities, the reasons set out in the One Month Notice.

The landlord did not participate in the hearing and as such has failed to provide sufficient evidence to justify cause to issue the One Month Notice. Accordingly, the One Month Notice is hereby cancelled and of no force or effect.

As the tenant was successful in this application, I find that the tenant is entitled to recover the \$100.00 filing fee paid for this application from the landlord. The tenant is granted a monetary order in the amount of \$100.00.

Conclusion

I allow the tenant's application to cancel the landlord's One Month Notice dated September 18, 2019, which is hereby cancelled and of no force or effect. This tenancy continues until it is ended in accordance with the Act.

Pursuant to section 67 of the *Act*, I grant the tenant a Monetary Order in the amount of \$100.00. Should the landlord fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial 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 *Residential Tenancy Act*.

Dated: December 03, 2019

Residential Tenancy Branch