



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL-4M, FFT

This hearing convened as a result of a Tenants' Application for Dispute Resolution, filed on December 30, 2019, wherein the Tenants sought to cancel a 4 Month Notice to End Tenancy issued on December 28, 2019 (the "Notice") and to recover the filing fee.

The hearing of the Tenants' Application was scheduled for teleconference at 9:30 a.m. on March 2, 2020. Both Tenants called into the hearing as did legal counsel for the Landlord.

The Landlord's counsel sent a letter to the Residential Tenancy Branch eight days prior to the hearing informing that the new owners wished to take over the tenancy. This communication also indicates the new owners requested that the Landlord withdraw the Notice.

Counsel for the Landlord confirmed that the Notice was to be withdrawn. She also confirmed the Landlord was agreeable to the Tenants reducing their next month's rent by \$100.00 as recovery of the filing fee.

The Tenants confirmed that it was their understanding the Landlord wished to withdraw the Notice and that the new owner would assume their tenancy.

As the Notice is withdrawn and the tenancy is continuing, it was not necessary to consider the validity of the Notice. As such I make no findings of fact or law with respect to their relative positions.

A tenant who received a notice to end tenancy pursuant to section 49(6) has 30 days in which to apply to dispute the notice, failing which they are conclusively presumed to accept the end of the tenancy. As such, even though the Landlord subsequently withdrew the Notice, the Tenants had to apply to dispute the Notice to preserve their

tenancy. Consequently, I find they are entitled to recover their \$100.00 filing fee; pursuant to section 72 of the *Act* I authorize the Tenants to reduce their next month's rent payment by \$100.00.

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: March 02, 2020

Residential Tenancy Branch