



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL, FF

Introduction

On January 1, 2020, the Tenants submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (“the Act”) seeking to cancel a Two Month Notice to End Tenancy for Landlord Use of Property. On February 4, 2020 the Tenants amended their application to include a dispute of another Two Month Notice to End Tenancy for Landlord Use of Property.

The matter was set for a conference call hearing. The Tenants appeared at the hearing; however, the Landlord did not. The line remained open while the phone system was monitored for ten minutes and the Landlord did not call into the hearing during this time.

The Tenants provided affirmed testimony that they served the Landlord with the Notice of Dispute Resolution Proceeding documents using registered mail sent on January 6, 2020 to the Landlord's address. The Tenants testified that the registered mail was received by the Landlord on January 8, 2020. The Tenants provided a copy of the registered mail receipt and tracking information as proof of service. The Tenants testified that they had a conversation with the Landlord on January 15, 2020, where the Landlord acknowledged that he had received the Notice of Dispute Resolution Proceeding.

I find that the Landlord was properly served with notice of the hearing in accordance with sections 89 and 90 of the Act. The Landlord failed to attend the hearing.

The hearing process was explained, and the Tenants were asked if they had any questions.

Issues to be Decided

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

Background and Evidence

The Tenants provided testimony confirming that the tenancy began in September 2006, as a one-year fixed term tenancy that continued thereafter on a month to month basis. Rent in the amount of \$1,745.00 is to be paid to the Landlord by the first day of each month. The Tenants paid the Landlord a security deposit in the amount of \$750.00.

The Tenants testified that they received two notices to end tenancy from the Landlord.

Two Month Notice to End Tenancy for Landlord's Use of Property dated December 16, 2019. The reason for ending the tenancy within the Notice is:

The rental unit will be occupied by the Landlord or the Landlord's close family member.

Two Month Notice to End Tenancy for Landlord's Use of Property dated January 30, 2020. The reason for ending the tenancy within the Notice is:

The rental unit will be occupied by the Landlord or the Landlord's close family member.

The Two Month Notice provides information for Tenants who receive the Notice. The Notice provides that a Tenant has the right to dispute the Notice within 15 days after it is received by filing an Application for Dispute Resolution at the Residential Tenancy Branch.

The Tenants disputed both Two Month Notices within the required time period.

The Landlord did not attend the hearing to pursue enforcement of the two notices that were served on the Tenants.

Analysis

In the matter before me, the Landlord has to attend the hearing to prove that the reason to end the tenancy is valid. I find that the Landlord was properly served with the Notice of Dispute Resolution Proceeding and failed to attend the hearing to pursue ending the tenancy.

Therefore, since the Landlord did not attend the hearing by 9:40 AM, I cancel the Two Month Notice to End Tenancy for Landlord's Use of Property dated December 16, 2019 and the Two Month Notice to End Tenancy for Landlord's Use of Property dated January 30, 2020.

The tenancy will continue until ended in accordance with the legislation.

Section 72 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. I order the Landlord to repay the \$100.00 fee that the Tenants paid to make application for dispute resolution. I authorize the Tenants to withhold \$100.00 from one (1) future rent payment.

Conclusion

The Tenant's Application to cancel the Two Month Notices to End Tenancy for Landlord's Use of Property is granted. The Notices are cancelled.

The tenancy will continue until ended in accordance with the legislation.

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 03, 2020

Residential Tenancy Branch