



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR DRI MT FFT

Introduction

This hearing was convened as a result of the Tenants' Application for Dispute Resolution. A hearing by telephone conference was held on March 20, 2020. The Tenants applied for multiple remedies, pursuant to the *Residential Tenancy Act* (the *Act*).

The Tenants both attended the teleconference hearing; however, the Landlord did not. The Tenants testified that they personally served the Landlord with their application and evidence on January 23, 2020. I am satisfied the Landlord has been sufficiently served with the application package and the Notice of Hearing on January 23, 2020.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Preliminary and Procedural Matters

The Tenants applied for multiple remedies under the *Act*, some of which were not sufficiently related to one another.

Section 2.3 of the Rules of Procedure states that claims made in an Application must be related to each other and that arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.

After looking at the list of issues before me at the start of the hearing, I determined that the most pressing and related issues deal with whether or not the tenancy is ending. As

a result, I exercised my discretion to dismiss all of the Tenant's application, with leave to reapply, with the exception of the following claim:

- to cancel the 10 Day Notice to End Tenancy for Unpaid Rent, dated January 9, 2020 (the Notice).

Further, since the Tenant filed her application to cancel the Notice within the acceptable time frame, it is not necessary to consider her request for more time to file the application to cancel that Notice. The Tenants received the Notice on January 10, 2020, and applied to cancel it on January 15, 2020.

Issue to be Decided

- Should the Notice be cancelled?

Background, Evidence, and Analysis

The Tenants stated that they received the Notice of January 10, 2020, after it was posted to their door. This Notice indicated that rent had not been paid in full.

In the matter before me, the Landlord has the onus of proof to prove that the Notice is valid. I find that the Landlord was properly served with the Notice of Hearing and failed to attend the hearing to prove the allegation within the Notice.

Therefore, as the Landlord did not attend the hearing by 9:40 AM on March 20, 2020, I cancel the Notice, dated January 9, 2020.

I Order the tenancy to continue until ended in accordance with the Act.

Section 72 of the *Act* gives me authority to order the repayment of a fee for an application for dispute resolution. As the Tenants were successful in their application, I order the Landlord to repay the \$100.00 fee that the Tenants paid to make application for dispute resolution. The Tenants may deduct the amount of \$100.00 from one future rent payment.

Conclusion

The Tenant's application is successful. The Notice issued by the Landlord dated January 9, 2020, is cancelled.

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

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 20, 2020

Residential Tenancy Branch