



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CENTURY APARTMENTS
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC, CNR

Introduction

This hearing convened as a result of a Tenant's Application for Dispute Resolution, filed on September 10, 2020, wherein the Tenant sought an Order canceling a 1 Month Notice to End Tenancy for Cause issued on August 27, 2020 (the "1 Month Notice") and an Order canceling a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities issued on September 3, 2020 (the "10 Day Notice") (collectively referred to as the "Notices").

The hearing of the Tenant's Application was scheduled for teleconference at 11:00 a.m. on November 2, 2020. Only the Tenant called into the hearing.

The Landlord did not attend this hearing, although I left the teleconference hearing connection open until 11:17 a.m. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the Tenant and I were the only ones who had called into this teleconference.

As the Landlord did not call in, I considered service of the Tenant's hearing package.

The Tenant testified that he personally served the Landlord's property manager, S.M. with the Notice of Hearing and the Application on September 28, 2020; the Tenant further testified that this service was witnessed by a third party, J.M. I accept the Tenant's undisputed testimony in this regard and find S.M. was duly served as of September 28, 2020 and I proceeded with the hearing in their absence.

Preliminary Matter

The Tenant confirmed that he mistakenly named J.G. as a Tenant on the Application. Section 64(3)(c) of the *Act* allows me to amend an Application for Dispute Resolution. As such, I amend the Application to remove J.G. as a Tenant.

The Tenant also erroneously named the Landlord's Property Manager as Landlord on the Application for Dispute Resolution. A review of the tenancy agreement and Notices confirms the name of the Landlord as a business. Pursuant to section 64(3)(c) of the *Act* I amend the Tenant's Application to accurately name the Landlord.

Issues to be Decided

1. Should the Notice be cancelled?
2. Is the Tenant entitled to recover the filing fee?

Analysis and Conclusion

Residential Tenancy Branch Rules of Procedure—Rule 6.6 provides that when a tenant applies to cancel a notice to end tenancy the landlord must present their evidence first as it is the landlord who bears the burden of proving (on a balance of probabilities) the reasons for ending the tenancy.

Rules 7.1 and 7.3 of the *Residential Tenancy Branch Rules of Procedure* provide as follows:

Commencement of Hearing:

The hearing must commence at the scheduled time unless otherwise decided by the arbitrator.

Consequences of not attending the hearing

If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.

As the Landlord's representatives failed to call into the hearing to provide evidence and submissions in support of the Notices, I find the Landlord has failed to meet the burden of proving the reasons for ending the tenancy. As such, I grant the Tenant's request to cancel the Notices. The tenancy shall continue until ended in accordance with the *Residential Tenancy Act*.

This decision is final and binding on the parties, except as otherwise provided under the Act, and 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: November 02, 2020

Residential Tenancy Branch