



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Resilient Management Service
Ltd and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes **CNL, FFT**

Introduction

This hearing dealt with an application by the tenant under the *Residential Tenancy Act* (the *Act*) for the following:

- Cancellation of a Two Month Notice to End Tenancy for Landlord's use ("Two Month Notice") pursuant to section 49;
- An order requiring the landlord to reimburse the tenant for the filing fee pursuant to section 72.

The matter was scheduled as a teleconference hearing. The Tenants attended the hearing; however, the Landlord did not. The line remained open while the phone system was monitored for eleven minutes and the Landlord did not call into the hearing during this time.

The Tenants provided affirmed testimony that on November 3 and 6, 2020, they served the Landlord with the Notice of Hearing and Application for Dispute Resolution by registered mail sent to the Landlord's address as it appeared on the Notice. The tenants submitted copies of the receipts and the tracking numbers as evidence.

Further to the Tenants' testimony and supporting documentary evidence, I find that the Landlord was served with the documents pursuant to this Act. The Landlord failed to attend the hearing.

The hearing proceeded and the Tenants provided affirmed testimony and were provided the opportunity to present their evidence, orally and in written and documentary form, and make submissions to me.

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.

Issue to be Decided

- Is the tenancy ending based on a Two Month Notice to End Tenancy for Landlords Use of Property?

Background

The Tenants testified that they received a Two Month Notice to End Tenancy for Landlord's use of property from the Landlord. The Tenants testified that the Two-Month Notice is dated and signed by the agent WD. The Tenants submitted a copy of the Notice as evidence.

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 assumed to be received by filing an Application for Dispute Resolution at the Residential Tenancy Branch.

The Tenants disputed the Two Month Notice by applying for Dispute Resolution within the required timeframe.

The Tenants have not accepted the Two Month Notice and are seeking cancellation of the Notice.

The Landlord failed to attend the hearing. The burden to support the reason to end the tenancy rests with the Landlord.

Analysis

Based on the above, the testimony and evidence of Tenants, and on a balance of probabilities, I find as follows:

I find that the Landlord was served with notice to attend the hearing.

The Landlord failed to attend the hearing to confirm that the Landlord issued the Two Month Notice and to provide testimony on why the tenancy needs to end. A Landlord who issues a notice to end tenancy bears the burden of proof that there is sufficient reason to end a tenancy.

Since the Landlord has failed to attend the hearing to provide testimony and pursue enforcement of the Two Month Notice, the Notice is cancelled.

The Tenants' application to cancel the Two Month Notice is successful. The tenancy will 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. I order the Landlord to repay the \$100.00 fee that the Tenants paid to make application for dispute resolution. The Tenants may deduct \$100.00 from the monthly rent on a one-time basis only.

Conclusion

The Landlord failed to attend the hearing to provide testimony and pursue enforcement of the Two Month Notice. The Two Month Notice is cancelled.

The tenancy continues 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: November 20, 2020

Residential Tenancy Branch