



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, FFT

Introduction

This hearing dealt with an Application for Dispute Resolution (the Application) that was filed by the Tenants under the *Residential Tenancy Act* (the Act), seeking:

- Cancellation of a One Month Notice to End Tenancy for Cause (the One Month Notice); and
- Recovery of the \$100.00 filing fee.

I note that section 55 of the Act requires that when a tenant submits an Application seeking to cancel a notice to end tenancy issued by a landlord, I must consider if the landlord is entitled to an order of possession if the Application is dismissed and the landlord has issued a notice to end tenancy that is compliant with section 52 of the Act.

The hearing was convened by telephone conference call and was attended by the Landlord G.M., who provided affirmed testimony. Neither the Tenants nor an agent acting on their behalf attended. The Notice of Dispute Resolution Proceeding states the date and time of the hearing, that the hearing will be conducted by telephone conference call, and provides the phone number and access code for the hearing. It also instructs participants that they are to call into the hearing themselves no more than five minutes before the start of the hearing. I confirmed that the details shown in the Notice of Dispute Resolution Proceeding were correct and I note that the Landlord was able to attend the hearing promptly using the information contained in the Notice of Dispute Resolution Proceeding they state was personally served on them by the Tenants on November 9, 2020. The Landlord attended the hearing at the scheduled time, ready to proceed, and was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing. Although the line remained open for 19 minutes, neither the Applicants nor an agent acting on their behalf appeared to provide any evidence or testimony for my consideration.

Rule 7.1 of the Residential Tenancy Branch Rules of Procedure (the Rules of Procedure) states that the dispute resolution hearing will commence at the scheduled time unless otherwise set by the arbitrator. As the Landlord and I attended the hearing on time and ready to proceed and there was no evidence before me that the parties had agreed to reschedule or adjourn the matter, I commenced the hearing as scheduled at 9:30 A.M. on January 19, 2021. Rule 7.3 of the Rules of Procedure states that 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 reapply. As neither the Tenants nor an agent acting on their behalf attended the hearing to present any evidence or testimony for my consideration regarding the Tenants' Application, I therefore dismiss the Tenants' Application without leave to reapply.

During the hearing the Landlord stated that the Tenants have vacated the rental unit and therefore they do not require an Order of Possession. As a result, I have not made any findings of fact or law in relation to the validity of the One Month Notice disputed by the Tenants, whether it complies with section 52 of the Act, or whether the Landlords are entitled to an Order of Possession based on the One Month Notice.

During the hearing the Landlord also stated that there was a misspelling in their surname on the Application and provided me with the correct spelling. I have amended the Application accordingly, pursuant to rule 4.2 of the Rules of Procedure.

Conclusion

The Tenants' Application seeking cancellation of the One Month Notice and recovery of the \$100.00 filing fee is dismissed without leave to reapply.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act.

Dated: January 19, 2021

Residential Tenancy Branch