



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, LRE, FFT

Introduction

On December 4, 2020, the Tenant filed an Application for Dispute Resolution under the *Residential Tenancy Act* ("the *Act*") to cancel One Month Notice to End Tenancy for Cause (the Notice) issued November 27, 2020, to suspend or set conditions on the landlord's right to enter the rental unit or site, and to recover the filing fee for this application . The matter was set for a conference call.

The Landlord and the Tenant attended the hearing and were each affirmed to be truthful in their testimony. The Landlord and Tenant were provided with the opportunity to present their evidence orally and in written and documentary form and to make submissions at the hearing. The parties testified that they exchanged the documentary evidence that I have before me.

In a case where a tenant has applied to cancel a Notice, Rule 7.18 of the Residential Tenancy Branch Rules of Procedure require the landlord to provide their evidence submission first, as the landlord has the burden of proving cause sufficient to terminate the tenancy for the reasons given on the Notice.

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 Matters

I have reviewed the Tenant's application, and I note that they have applied to cancel a Notice to end tenancy as well as another issue. I find that this other issue is not related to the Tenant's request to cancel the Notice. As this other matter does not relate directly

to a possible end of the tenancy, I apply section 2.3 of the Residential Tenancy Branches Rules of Procedure, which states:

2.3 Related issues

Claims made in the application must be related to each other. Arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.

I explained to the parties, at the outset of the hearing, that I am dismissing with leave to reapply the Tenant's claim to suspend or set conditions on the landlord's right to enter the rental unit or site.

I will proceed with this hearing on the Tenant's claim to cancel the Notice and recover the filing fee.

Issues to be Decided

- Should the Notice issued on November 27, 2020, be cancelled?
- If not, is the Landlord entitled to an order of possession?
- Is the Tenant entitled to the recovery of the filing fee of their application?

Background and Evidence

During this hearing, the Landlord withdrew the Notice to End Tenancy.

The Tenant confirmed that they were agreeable to the Landlord withdrawing their Notice to end the tenancy.

Analysis

I find that the Notice to end tenancy for Cause, issued on January 2, 2021, has been withdrawn.

Section 72 of the Act gives me the authority to order the repayment of a fee for an application for dispute resolution. As the Tenant has been successful in their application to dispute the Notice, I find that the Tenant is entitled to recover the \$100.00 filing fee

paid for this application. The Tenant is allowed to take a one-time deduction of \$100.00 from their next month's rent in satisfaction of this award.

Conclusion

The Notice issued on November 27, 2020, to end tenancy has been withdrawn. The tenancy will continue until legally ended in accordance with the Act.

I grant the Tenant permission to take a one-time deduction of \$100.00 from their next month's rent.

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 1, 2021

Residential Tenancy Branch