



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding FirstService Residential and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes AS, FFT

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution filed by the Tenant on January 30, 2021 (the "Application"). The Tenant applied as follows:

- To be allowed to assign or sublet where the landlord's permission has been unreasonably withheld
- To recover the filing fee

The Tenant appeared at the hearing. K.L. and G.L. appeared at the hearing for the Landlord. I explained the hearing process to the parties. I told the parties they were not allowed to record the hearing pursuant to the Rules of Procedure (the "Rules"). The parties provided affirmed testimony.

Both parties submitted evidence prior to the hearing. I addressed service of the hearing package and evidence and no issues arose.

The Tenant withdrew the request for an order allowing him to assign or sublet where the Landlord's permission has been unreasonably withheld. K.L. agreed to this request being withdrawn. The Tenant continued to seek the filing fee and I heard the parties on this issue.

The parties were given an opportunity to make submissions on the issue of the filing fee. I have only included the relevant facts in this decision.

Issue to be Decided

1. Is the Tenant entitled to recover the filing fee?

Background and Evidence

There was no issue that there is a tenancy agreement between the parties.

The parties agreed that the following occurred. The Tenant asked for permission to assign or sublet the rental unit and the request was denied January 28, 2021. The Tenant was then given permission to assign or sublet the rental unit February 01, 2021.

The Application was filed January 30, 2021.

Analysis

Section 72(1) of the *Residential Tenancy Act* states:

72 (1) The director may order payment or repayment of a fee under section 59 (2) (c) [starting proceedings] or 79 (3) (b) [application for review of director's decision] by one party to a dispute resolution proceeding to another party or to the director.

I am satisfied it was reasonable for the Tenant to file the Application January 30, 2021 given the Landlord had denied his request to assign or sublet the rental unit on January 28, 2021. At the time the Application was filed, the Landlord had not changed their position on the issue of assigning or subletting as the Landlord did not give the Tenant permission to assign or sublet until February 01, 2021, two days after the Application was filed. Further, I consider the Tenant to have been successful in the request to assign or sublet as the Landlord changed their position and allowed this February 01, 2021. I am satisfied the Tenant is entitled to recover the filing fee.

Pursuant to section 72(2) of the *Act*, the Tenant can deduct \$100.00 from one future rent payment.

Conclusion

The Tenant is entitled to recover the filing fee. The Tenant can deduct \$100.00 from one future rent payment.

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: April 28, 2021

Residential Tenancy Branch