



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC FFT

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the "1 Month Notice") pursuant to section 47;
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

The landlord did not attend this hearing which lasted approximately 10 minutes. The teleconference line remained open for the duration of the hearing and the Notice of Hearing was confirmed to contain the correct hearing information. The tenant attended and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The tenant testified that they served the landlord with their application and evidence in person on February 26, 2021. Based on the undisputed testimony I find that the landlord was served with the tenant's materials on February 26, 2021 in accordance with sections 88 and 89 of the *Act*.

At the outset of the hearing the tenant stated they had moved out of the rental unit and withdrew the portion of their application seeking cancellation of the 1 Month Notice. They maintained that they were still seeking recovery of their filing fee from the landlord.

Issue(s) to be Decided

Is the tenant entitled to recover the filing fee from the landlord?

Background and Evidence

This periodic tenancy began on January 1, 2020. The monthly rent was \$2,200.00 payable on the first of each month. A 1 Month Notice to End Tenancy for Cause dated February 12, 2021 with an effective date of March 31, 2021 was served on the tenant on February 13, 2021. The tenant vacated the rental unit in April 2021. The tenant provided written submissions and testimony complaining about their relationship with the landlord and saying they felt forced out of the rental unit.

Analysis

Section 72 of the Act provides that I may order payment or repayment of a fee for starting proceedings by a party to a dispute resolution proceeding. Repayment of filing fees is meant to allow parties who are successful at a hearing some measure of recompense.

In the present case I find that this hearing was wholly unnecessary. The tenant has vacated the rental unit and the tenancy has concluded nearly a month prior to the hearing. The applicant could have withdrawn their application at that time allowing other, more meritorious matters to be scheduled. The tenant did not do so, and attended the hearing to withdraw the portion of their application seeking cancellation of the 1 Month Notice but still seeking recovery of their filing fees. As the tenant was not successful in their application I decline to order repayment of the filing fees.

Conclusion

The portion of the application seeking cancellation of a 1 Month Notice is withdrawn and dismissed without leave to reapply. The balance of the application 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 *Residential Tenancy Act*.

Dated: May 25, 2021

Residential Tenancy Branch