



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant to cancel a Two Month Notice to End Tenancy for Landlord's Use of Property (the "Notice") issued on February 18, 2022.

The tenant attended the hearing.

Preliminary and Procedural Issues

As the landlord did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The Residential Tenancy Branch Rules of Procedure states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing.

The tenant testified the Application for Dispute Resolution and Notice of Hearing were sent by registered mail on March 18, 2022, and successfully delivered to the landlord on March 22, 2022, a Canada Post tracking number was provided as evidence of service. I find the landlord was served on March 22, 2022, in accordance with the Act.

In a case where a tenant has applied to cancel a Notice, Rule 11.1 of the Residential Tenancy Branch Rules of Procedure require the landlord to provide their evidence submission first, as the landlord has the burden of proof to prove the reasons given on the Notice

This matter was set for hearing by telephone conference call at 11:00A.M. on this date. The line remained open while the phone system was monitored for ten minutes. The landlord did not appear to provide any testimony, although duly served.

As the burden of proof is on the landlord to prove the reason stated in the Notice, I find without any submission from the landlord, that the landlord has not met the burden of proof to prove the reason stated in the Notice. Therefore, I grant the tenant's application and cancel the Notice. The Notice has no force or effect, and the tenancy will continue until legally ended in accordance with the Act.

Conclusion

The tenant's application to cancel the Notice is granted.

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: June 20, 2022

Residential Tenancy Branch