



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CENTURY 21 QUEENSWOOD REALTY LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

CNL, FFT

Introduction

This hearing was convened as a result of an Application for Dispute Resolution filed by the Tenants, in which they applied to cancel a Two Month Notice to End Tenancy for Landlord's Use and to recover the fee for filing this Application for Dispute Resolution.

The female Tenant stated that in May of 2022 the Dispute Resolution Package and evidence submitted to the Residential Tenancy Branch on May 14, 2022 was sent to the Respondent, via registered mail.

The Landlord stated that the named Respondent is his agent and that the aforementioned documents were forwarded to him by the Respondent. As the documents were properly served to an agent for the Landlord and the Landlord is represented at these proceedings, the aforementioned evidence was accepted as evidence for these proceedings.

On May 30, 2022 the Tenants submitted additional evidence to the Residential Tenancy Branch. The female Tenant stated that on May 30, 2022 this evidence was served to the Respondent, via email, to the email service address provided by the Respondent. The Landlord stated that he does not recall if this evidence was forwarded to him by the Respondent.

On September 02, 2022 the Tenants submitted additional evidence to the Residential Tenancy Branch. The female Tenant stated that on September 02, 2022 this evidence was served to the Respondent, via email, to the email service address provided by the

Respondent. The Landlord stated that he does not have this evidence in the documents forwarded to him by the Respondent.

On the basis of the testimony of the female Tenant, I find that the Tenants' evidence packages of May 30, 2022 and September 02, 2022 were properly served to the Respondent. Although the evidence was properly served to the Respondent, I did not consider it as evidence for these proceedings, as the Landlord does not have a copy of those documents.

In circumstances where a party does not have evidence, perhaps as a result of an administrative error, I find it reasonable to adjourn a hearing to provide the serving party with an opportunity to re-serve their evidence package. Typically, I find an adjournment is reasonable to provide both parties with a fair chance to present and respond to evidence.

In these circumstances, however, I find that an adjournment is not necessary. In reaching this conclusion I find that the evidence packages of May 30, 2022 and September 02, 2022 are not particularly relevant to the matters before me. I am able to make a finding in favor of the Tenant without the need to consider that evidence. I therefore have not accepted the evidence packages of May 30, 2022 and September 02, 2022 as evidence for these proceedings.

The participants were given the opportunity to present relevant oral evidence, to ask relevant questions, and to make relevant submissions. Each participant affirmed that they would speak the truth, the whole truth, and nothing but the truth during these proceedings.

The participants were advised that the Residential Tenancy Branch Rules of Procedure prohibit private recording of these proceedings. Each participant affirmed they would not record any portion of these proceedings.

Issue(s) to be Decided

Should the Two Month Notice to End Tenancy for Landlord's Use be set aside?

Background and Evidence

The Landlord and the Tenants agree that:

- this tenancy began on March 21, 2022;
- a Two Month Notice to End Tenancy for Landlord's Use was personally served to the Tenants on April 30, 2022;
- The Two Month Notice to End Tenancy for Landlord's Use declared that the rental unit must be vacated by June 30, 2022; and
- On May 13, 2022 the Landlord informed the Tenants, via email, that he would withdraw the Two Month Notice to End Tenancy for Landlord's Use.

At the hearing the Landlord stated that he remains willing to withdraw the Two Month Notice to End Tenancy for Landlord's Use.

At the hearing the Landlord stated that the Tenants may deduct \$100.00 from one monthly rent payment as compensation for the cost of filing this Application for Dispute Resolution. The female Tenant agreed that a rent reduction of \$100.00 is an acceptable method of compensating the Tenants for the cost of filing this Application for Dispute Resolution.

Analysis

On the basis of the undisputed evidence, I find that the Tenants were served with a Two Month Notice to End Tenancy for Landlord's Use on April 30, 2022.

On the basis of the testimony of the Landlord, I find that he no longer wishes to pursue the Two Month Notice to End Tenancy for Landlord's Use. I therefore grant the application to set aside this Two Month Notice to End Tenancy for Landlord's Use.

I find that the Tenants' Application for Dispute Resolution has merit and that they are entitled to recover the fee for filing this Application for Dispute Resolution.

Conclusion

The Two Month Notice to End Tenancy for Landlord's Use is set aside and has no force or effect. This tenancy shall continue until it is ended in accordance with the *Act*.

I authorize the Tenants to withhold \$100.00 from one monthly payment in compensation for the fee paid to file this Application for Dispute Resolution.

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: September 23, 2022

Residential Tenancy Branch