



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL FF

Introduction

This hearing was convened as a result of the tenants' Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (Act). The tenants applied to cancel a 2 Month Notice to End Tenancy for Landlord's Use of Property dated May 2, 2022 (2 Month Notice) and to recover the cost of the filing fee.

The tenants attended the teleconference hearing. As the landlord did not attend the hearing, service of the Notice of a Dispute Resolution Hearing dated June 8, 2022 (Notice of Hearing), application and documentary evidence (Hearing Package) were considered. The tenants testified that the landlord was served the Hearing Package by registered mail on June 10, 2022. The tenants provided a Canada Post registered mail tracking number, which has been included on the cover page of this Decision for ease of reference. According to the Canada Post online registered mail tracking website, the Hearing Package was successfully delivered to the landlord on June 17, 2022. Given the above, I find the landlord was successfully served on June 17, 2022, in accordance with the Act.

As the landlord did not attend the hearing, I find the tenants' application to be unopposed.

Issues to be Decided

- Should the 2 Month Notice be cancelled?
- If yes, are the tenants entitled to the recovery of the cost of the filing fee under the Act?

Background and Evidence

A copy of the 2 Month Notice was submitted in evidence which is dated May 2, 2022. The tenants testified that they received the 2 Month Notice on May 12, 2022 by personal service. The tenants disputed the 2 Month Notice on May 26, 2022, which is within the 15-day timeline provided for pursuant to section 49(8)(a) of the Act.

The landlord did not attend the hearing to provide evidence to prove that the 2 Month Notice was valid and should be upheld.

Analysis

Based on the documentary evidence, the undisputed testimony of the tenants, and on the balance of probabilities, I find the following.

When tenants dispute a 2 Month Notice, the onus of proof reverts to the landlord to prove that the 2 Month Notice is valid and should be upheld. If the landlord fails to prove the 2 Month Notice is valid, the 2 Month Notice will be cancelled.

As the landlord did not attend the hearing to present evidence to support the 2 Month Notice, I find the landlord has failed to prove that the 2 Month Notice is valid. As a result, **I cancel** the 2 Month Notice dated May 2, 2022.

Pursuant to section 62(3) of the Act, I make the following order.

I ORDER that the tenancy shall continue until ended in accordance with the Act.

As the tenants' application was fully successful, I find that the tenants are entitled to monetary compensation pursuant to section 67 of the Act, in the amount of **\$100** to recover the cost of \$100 filing fee. **I authorize a one-time rent reduction in the amount of \$100 from a future month's rent**, in full satisfaction of recovering the cost of the filing fee.

Conclusion

The tenants' application is fully successful.

The 2 Month Notice dated May 2, 2022 is cancelled, due to insufficient evidence and is of no force or effect.

The tenancy has been ordered to continue until ended in accordance with the Act.

The tenants are granted a one-time rent reduction of \$100 for the filing fee as indicated above.

This Decision will be emailed to the tenants and sent by regular mail to the landlord as the tenants were not aware of an email address for the landlord.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: October 14, 2022

Residential Tenancy Branch