



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, CNC

Introduction

This hearing dealt with an Application for Dispute Resolution (the Application) that was filed by the Tenants on June 8, 2022, under the *Residential Tenancy Act* (the Act), seeking:

- Cancellation of a One Month Notice to End Tenancy for Cause (the One Month Notice); and
- Cancellation of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the 10 Day Notice).

The hearing was convened by telephone conference call at 9:30 A.M. (Pacific Time) on October 24, 2022, and was attended by the Landlord, who provided affirmed testimony. The Tenants did not attend. The Notice of Dispute Resolution Proceeding states the date and time of the hearing, that the hearing will be conducted by telephone conference call, and provides the phone number and access code for the hearing. It also instructs participants that they are to call into the hearing themselves no more than five minutes before the start of the hearing. I confirmed that the details shown in the Notice of Dispute Resolution Proceeding were correct. The Landlord stated that they are unsure what the hearing is about as they received nothing in relation to this hearing from the Tenants. The Landlord stated that they only became aware of the hearing because they received auto generated emails from the Residential Tenancy Branch (the Branch). Although the line remained open for 6 minutes, neither the Tenants nor an agent acting on their behalf appeared to provide evidence or testimony for my consideration.

The ability to know the case against you and have an opportunity to respond is fundamental to the dispute resolution process. As there is no evidence to the contrary, I accept the Landlord's affirmed and undisputed testimony that they were not served with any documentation in relation to this hearing by the Tenants, including but not limited to the Notice of Dispute Resolution Proceeding (NODRP). As a result, I find that the NODRP was not served on the Landlord in accordance with section 59(3) of the Act or rule 3.1 of the Residential Tenancy Branch Rules of Procedure (Rules of Procedure). As a result, I find that it would be significantly prejudicial to the Landlord and a breach of the Act, the Rules of Procedure, and the principles of administrative justice and procedural fairness to proceed with the hearing. I therefore dismiss the Tenants' Application in its entirety, without leave to reapply, as the timelines for disputing the notices to end tenancy are now long past.

In any event, the Landlord stated that the tenancy ended in August of 2022, when the Tenants vacated the rental unit.

Conclusion

The Tenants' Application seeking cancellation of the One Month Notice and the 10 Day Notice is dismissed without leave to reapply.

This decision is made on authority delegated to me by the Director of the Branch under Section 9.1(1) of the Act.

Dated: October 24, 2022

Residential Tenancy Branch