



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, FFT

Introduction

This hearing dealt with an Application for Dispute Resolution by the Tenant filed under the *Residential Tenancy Act* (the “Act”), to cancel a One Month Notice to End Tenancy for Cause, (the “Notice”) issued on August 1, 2023, and to recover the filing fee for this application. The matter was set for a conference call.

Both the Landlord and Tenant attended the hearing and were each affirmed to be truthful in their testimony. They were both provided with the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

In a case where a tenant has applied to cancel a Notice, Rule 7.18 of the Residential Tenancy Branch Rules of Procedure require the landlord to provide their evidence submission first, as the landlord has the burden of proving cause sufficient to terminate the tenancy for the reasons given on the Notice.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter is described in this Decision.

Issues to be Decided

- Should the Notice issued on August 1, 2023, be cancelled?
- If not, is the Landlord entitled to an order of possession?
- Is the Tenant entitled to the return of their filing fee?

Background and Evidence

Both parties agreed that the Tenant moved out and returned possession of the rental to the Landlord as of December 24, 2022.

Analysis

Based on the evidence before me, the testimony of the Landlord and the Tenant, and on a balance of probabilities, I find that the Tenant moved out of the rental unit as of December 24, 2022.

I find that this tenancy has already ended in accordance with the *Act* and that there is no requirement for a decision on the validity of the Landlord's notice to end this tenancy or a need for an Order of Possession. Therefore, I dismiss the Tenant's application to cancel the Notice and recover the filing fee.

Conclusion

The Tenant's 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: January 10, 2023

Residential Tenancy Branch