



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes CNR, FFT

The Tenant seeks the following relief under the *Residential Tenancy Act* (the “*Act*”):

- an order pursuant to s. 46 cancelling a 10-Day Notice to End Tenancy; and
- return of the filing fee pursuant to s. 72.

This matter had been scheduled for hearing on February 2, 2023 but was adjourned to today's date due to concerns I had with respect to service of the application. In my interim reasons, I amended the application such that a One-Month Notice to End Tenancy signed January 4, 2023 (the “One-Month Notice”) was disputed given that the Tenant confirms having been served with it, rather than a 10-day notice for unpaid rent.

N.M. appeared as the Tenant. The Landlord did not attend the hearing.

The Tenant affirmed to tell the truth during the hearing. He advised me that he served all relevant documents on the Landlord via registered mail and further advised me that the Landlord and his realtor were aware of today's hearing. Accepting the Tenant's undisputed testimony, I find that the Tenant has served his application and the notice of reconvened hearing on the Landlord in accordance with s. 89 of the *Act*.

The Tenant further advises that the Landlord has since sold the property with the new owner taking possession on May 31, 2023.

Rule 6.6 of the Rules of Procedure specifies that when a tenant files to dispute a notice to end tenancy, the burden of proving the notice was issued in compliance with the *Act* rests with the respondent landlord. In this case, as I am satisfied the application was served, I find that by failing to attend the hearing the Landlord has failed to prove the One-Month Notice was properly issued.

Accordingly, I cancel the One-Month Notice, which is of no force or effect. The tenancy will continue until ended in accordance with the *Act*.

As the Tenant was successful, I find that he is entitled to his filing fee. Pursuant to s. 72(1) of the *Act*, I order that the Landlord pay **\$100.00** to the Tenant for his filing fee.

It is the Tenant's obligation to serve the order on the Landlord. If the Landlord does not comply with the order, it may be enforced at the Provincial Court.

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: May 19, 2023

Residential Tenancy Branch