



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes CNC, FFT

Introduction

This hearing commenced at 9:30 a.m. on this date to hear the tenant's application for cancellation of a One Month Notice to End Tenancy for Cause ("One Month Notice") and other issues.

The tenant appeared and was affirmed. The tenant was also assisted by an Advocate. There was no appearance on part of the landlords despite leaving the teleconference call open until 9:49 a.m.

Since there was no appearance on part of the landlords, I explored service of hearing materials. The tenant's Advocate stated that the hearing materials were given to the landlord referred to by initials BD, in person, on January 12, 2023 by a person from the advocacy office and the tenant. The materials served included the original Application for Dispute Resolution and an Amendment. The Advocate stated that a signed document to prove service was completed and submitted to the Residential Tenancy Branch. I was able to locate the signed proof of service document that was provided to the Residential Tenancy Branch and I am satisfied the landlord BD, who issued the subject One Month Notice, was duly served in a manner that complies with the Act.

Although the tenant indicated she was seeking cancellation of a 10 Day Notice to End Tenancy for Unpaid Rent in completing the Application for Dispute Resolution, I heard the tenant did not receive such a notice. Therefore, I find this dispute code was indicated in error and I amended the application accordingly.

The tenant also indicated she was seeking orders for compliance on the Application for Dispute Resolution; however, during the hearing the tenant did not pursue this remedy. Accordingly, I did not further consider the request and the request for orders for compliance is dismissed with leave to reapply.

Issue(s) to be Decided

1. Should the One Month Notice be upheld or cancelled?
2. Award of the filing fee.

Background and Evidence

The tenant testified that her tenancy started in December 2022 and the landlords collected a security deposit of \$750.00. The monthly rent is set at \$1500.00 payable on the first day of every month.

On January 1, 2023 the tenant found the subject One Month Notice attached to the rental unit door. The One Month Notice was signed on December 31, 2022 and has a stated effective date of February 1, 2023. The tenant filed to dispute the One Month Notice on January 9, 2023 which is within the time limit for doing so.

The tenant confirmed that she continues to reside in the rental unit and she seeks to continue the tenancy for the time being.

Analysis

Where a notice to end tenancy comes under dispute, the landlord bears the burden to prove the tenant was served with a valid notice to end tenancy and the tenancy should end for the reason(s) indicated on the notice.

In this case, there was no appearance at the hearing by the landlords and there was no evidence provided to the Residential Tenancy Branch by the landlords prior to the hearing. Given the lack of any evidence from the landlords to demonstrate the One Month Notice should be upheld, I grant the tenant's request and I cancel the One Month Notice with the effect the tenancy continues at this time.

Since the tenant was successful in this application, I award the tenant recovery of the \$100.00 filing fee paid for this application. I authorize the tenant to deduct \$100.00 from a subsequent month's rent to recover this award and in doing so the landlords must consider the rent to be paid in full.

Conclusion

The One Month Notice dated December 31, 2022 is cancelled and the tenancy continues at this time.

I authorize the tenant to deduct \$100.00 from a subsequent month's rent to recover the filing fee and in doing so the landlords must consider the rent to be paid in full.

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 05, 2023

Residential Tenancy Branch