



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes:

CNC

Introduction

The person named as tenant has applied to cancel a notice ending tenancy issued for cause on November 10, 2010 and to recover filing fee costs from the landlord.

Both parties were present at the hearing. At the start of the hearing I introduced myself and the participants.

Preliminary Matters

At the start of the hearing, after I had reviewed the application, counsel for the landlord requested an adjournment. Counsel then stated that her client wished to withdraw the notice ending tenancy and submitted that the Notice ending tenancy issued on November 10, 2010, was of no force. The parties are currently before British Columbia Provincial Court in relation to a family matter and the issue related to the dispute address forms a part of those proceedings.

As the individual named as a tenant was effectively compelled to submit this application it is not unreasonable that she be provided with compensation for the \$50.00 filing fee. A failure to dispute the notice ending tenancy, if jurisdiction had been established under the Residential Tenancy Act, would have resulted in the conclusive presumption that the tenancy ended on the effective date of the notice.

Legal counsel stated that the tenant had been told that the notice ending tenancy was being withdrawn; however, the tenant responded that she had been told that an adjournment was being sought. Further, a landlord may not unilaterally withdraw a notice ending tenancy.

Regardless of any finding in relation to jurisdiction, I have determined that the applicant had no choice but to submit this application due to the actions of the individual who issued her the notice and that she is entitled to filing fee costs.

Conclusion

The notice ending tenancy issued on November 10, 2010, was withdrawn by the respondent. The matter is before the British Columbia Provincial Court.

The individual named as a tenant is entitled to the \$50.00 filing fee.

Based on these determinations I grant the individual named as tenant a monetary Order for \$50.00. In the event that the respondent does not comply with this Order, it may be served on that person, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that 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: December 08, 2010.

Dispute Resolution Officer