



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNC, FF

Introduction:

The Application for Dispute Resolution filed by the Tenants seek the following:

- a. An order to cancel the one month Notice to End Tenancy dated July 31, 2017.
- b. An order to recover the cost of the filing fee.

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

I find that the one month Notice to End Tenancy was served on the Tenant on August 1, 2017. Further I find that the Application for Dispute Resolution/Notice of Hearing was served on the landlord by mailing, by registered mail to where the landlord resides on August 11, 2017. With respect to each of the applicant's claims I find as follows:

Issues to be Decided:

The issues to be decided are as follows:

- a. Whether the tenants are entitled to an order cancelling the Notice to End Tenancy dated?
- b. Whether the tenants are entitled to recover the cost of the filing fee?

Background and Evidence:

The tenancy began on February 1, 2017. The tenancy agreement provided that the tenant(s) would pay rent of \$825 per month payable in advance on the first day of each month. The tenant(s) paid a security deposit of \$412.50 and a pet damage deposit of \$400 at the start of the tenancy.

The landlord requested an adjournment. She testified that she recently suffered a serious medical problem and was not able to proceed at this time. The tenants stated they did not oppose the adjournment but that they were unavailable for a 2 week period over Christmas. It is not likely that the hearing could be held before December 2017.

The parties discussed whether they could come up with a settlement but were unable to do so.

I advised the landlord that in a case such as this an arbitrator's job is to determine whether there was cause to end the tenancy as of the date of the Notice to End Tenancy. Thus the landlord could not rely on conduct that occurred after the date of the Notice to End Tenancy. .

I determined in the circumstances that it was appropriate to give the landlord an opportunity to withdraw the one month Notice to End Tenancy on a without prejudice basis. Thus the landlord would have the right to serve a new Notice to End Tenancy that would include conduct up to the date of the new Notice. The landlord was further advised that if she chose to withdraw the Notice to End Tenancy, that I would be making an order that the landlord reimburse the tenants the cost of the filing fee such sum would be deducted from future rent.

The landlord stated she wished to withdraw the one month Notice to End Tenancy dated July 31, 2017.

Determination and Orders:

I ordered that the Notice to End Tenancy dated July 31, 2017 be cancelled on a without prejudice basis. The landlord has the liberty to serve a new Notice to End Tenancy on the same grounds. The tenancy shall continue with the rights and obligations of the parties remaining unchanged. I further ordered that the landlord pay to the Tenant the sum of \$100 for the cost of the filing fee such sum may be deducted from future rent.

This decision is final and binding on the parties.

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: September 25, 2017

Residential Tenancy Branch