



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL, FFT

Introduction

This hearing dealt with an Application for Dispute Resolution (“application”) under the *Residential Tenancy Act* (“Act”) by the tenant to cancel a 2 Month Notice to End Tenancy for Landlord’s Use of Property dated January 31, 2018 (“2 Month Notice”) and to recover the cost of the filing fee.

The tenants attended the teleconference hearing. The tenants gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and make submissions to me.

As the landlord did not attend the hearing, service of the Notice of a Dispute Resolution Hearing (“Notice of Hearing”), application and documentary evidence were considered. The tenants testified that on February 9, 2018 the landlord was served with the Notice of Hearing, application and evidence including both documentary and digital evidence by registered mail which was addressed to the landlord’s mailing address. A copy of the registered mail customer receipt with tracking number was submitted in evidence which supports the testimony of the tenants. In addition, the registered mail tracking number has been included on the cover page of this decision for ease of reference. According to the online registered mail tracking website, the landlord signed for and accepted the tenants’ package on February 12, 2018. Based on the above, I find the landlord was served pursuant to the *Act* on February 12, 2018 which was the date that the landlord signed for and accepted the registered mail package from the tenants. As the landlord failed to attend the teleconference hearing, I consider this application unopposed by the landlord and the hearing continued without the landlord present.

Issues to be Decided

- Should the 2 Month Notice be cancelled?
- Are the tenants entitled to the recovery of the cost of the filing fee under the *Act*?

Background and Evidence

The tenants testified that after a failed illegal rent increase attempt by the landlord of 26.5% in December 2017, and then the landlord stated to them that the landlord planned on selling the home, and then later the landlord then issued the tenants the 2 Month Notice which indicates the reason as “The rental unit will be occupied by the landlord or the landlord’s close family member (parent, spouse, or child: or the parent or child of that individual’s spouse.”

The landlord failed to attend the hearing to present any evidence to support that the 2 Month Notice is valid. The tenants continue to occupy the rental unit and believe that the 2 Month Notice was not issued in good faith.

Analysis

Based on the undisputed documentary evidence before me and the tenants’ undisputed testimony provided during the hearing, and on the balance of probabilities, I find the following.

I find the tenants’ application to be unopposed by the landlord as the landlord was sufficiently served and did not attend the hearing to present evidence to support that the 2 Month Notice is valid and issued in good faith.

Therefore, **I cancel** the 2 Month Notice as I find it is invalid and I find that it is of no force or effect. I order that the tenancy shall continue until ended in accordance with the *Act*.

As the tenants’ application was successful, I grant the tenants the recovery of the cost of their filing fee in the amount of **\$100.00** pursuant to section 72 of the *Act*. **I authorize** the tenants to deduct **\$100.00** on a one-time basis from a future month’s rent in full satisfaction of the recovery of the cost of the filing fee.

I caution the landlord not to issue invalid notices to end tenancy. Should the landlord continue to do so the landlord may be recommended for an administrative penalty under the *Act* which carries a maximum penalty of \$5,000.00 per day.

Conclusion

The tenants' application is successful.

The 2 Month Notice dated January 31, 2018 is cancelled and is of no force or effect.

The tenancy has been ordered to continue until ended in accordance with the *Act*.

The tenants have been authorized to deduct \$100.00 on a one-time basis from a future month's rent in full satisfaction of the recovery of the cost of the filing fee.

Should the landlord continue to issue notices to end tenancy that are found to be invalid, the landlord could be recommended for an administrative penalty under the *Act*. The maximum penalty under the *Act* for an administrative penalty is \$5,000.00 per day.

This decision is final and binding on the parties, unless otherwise provided under the *Act*, and 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: April 11, 2018

Residential Tenancy Branch