



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BC HOUSING MANAGEMENT COMMISSION
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC, FFT, MT

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution filed by the Tenant on September 21, 2018 (the “Application”). The Tenant applied to dispute a One Month Notice to End Tenancy for Cause served on her June 6, 2018 (the “Notice”). The Tenant also applied for more time to file the Application and for reimbursement for the filing fee.

The Tenant appeared at the hearing. The Property Manager appeared at the hearing for the Landlord.

The Tenant advised at the outset that she was no longer living at the rental unit. I note that an Order of Possession had been issued based on the Notice on October 9, 2018 in a previous hearing. The file number for the previous hearing is on the front page of this decision.

The Tenant acknowledged that the dispute of the Notice and request for more time to file the Application were moot points given the previous hearing. The Tenant still sought reimbursement for the filing fee.

I explained the hearing process to the parties and answered their questions in this regard. The parties provided affirmed testimony.

The Tenant had submitted evidence prior to the hearing. The Landlord had not submitted evidence. I addressed service of the hearing package and evidence and no issues arose in this regard.

The parties were given an opportunity to make submissions on the issue of reimbursement for the filing fee.

Issue to be Decided

1. Is the Tenant entitled to reimbursement for the filing fee?

Background and Evidence

The Tenant submitted that she is entitled to reimbursement for the filing fee. She said she did not want to go to arbitration in the first place and cannot afford the filing fee. She said she should not have been evicted.

I asked the Tenant why she filed the Application so late. I understood her to say that she was in discussions about finding another place to live and that it was not until September when she received some assistance with this that she was advised of the 10-day time limit for disputing the Notice.

The Property Manager submitted that the Tenant is not entitled to reimbursement for the filing fee. He pointed out that the Landlord had already filed their Application for Dispute Resolution in relation to the previous hearing at the time the Tenant filed the Application.

Analysis

Section 72(1) of the *Residential Tenancy Act* allows me to order the Landlord to reimburse the Tenant for the filing fee.

I do not accept that the Tenant is entitled to reimbursement for the filing fee in the circumstances. The Tenant filed the Application more than three months after receiving the Notice which is far outside the time limit for disputing a One Month Notice to End Tenancy under section 47(4) of the *Act*. As noted in the previous decision, the time to file the Application could not have been extended past July 31, 2018, the effective date of the Notice given section 66(3) of the *Act*. In the circumstances, I find the Application could not have been successful and I decline to order reimbursement for the filing fee in the circumstances. The Tenant's request for reimbursement for the filing fee is dismissed without leave to re-apply.

Conclusion

The Tenant's dispute of the Notice and request for more time to file the Application are moot points given the previous hearing. I decline to grant the Tenant reimbursement for the filing fee given the Application could not have been successful.

The Application is dismissed without leave to re-apply.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*.

Dated: November 05, 2018

Residential Tenancy Branch