



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing

Page: 1

DECISION

Dispute Codes: CNC FFT

Introduction

The Tenants want to cancel a One Month Notice to End Tenancy for Cause (the “Notice for Cause”) under section 47 of the *Residential Tenancy Act* (the “Act”).

The Tenants want to recover the cost of the application fee under section 72 of the Act.

Preliminary Issue: Non-Attendance of Landlord

Tenant (M.C.) testified that they served the Landlord with the Notice of Dispute Resolution Proceeding (the “Notice”) by Canada Post registered mail on December 15, 2022. Canada Post tracking information indicates that the Landlord received, and signed for, the Notice of Dispute Resolution Proceeding on December 16, 2022. Based on the Tenant’s undisputed oral and documentary evidence I am satisfied that the Landlord was properly served with the Notice necessary for them to participate in the hearing.

A dispute resolution hearing was convened on April 13, 2023 at 11:00 AM and it ended at 11:10 AM. Only one of the Tenants attended the hearing, while the Landlord did not.

When a tenant disputes a notice to end a tenancy, the onus, or obligation, to prove the reason for issuing that notice falls upon the landlord. The standard of proof is on a “balance of probabilities,” which means that it is more likely than not that the facts occurred as claimed, and which thus form the basis on which a notice was given.

Because the Landlord did not attend the hearing to provide evidence or make any argument or submissions about why they issued the Notice, it is my finding that the Landlord has not proven the reason for so doing. As such, I order that the Notice, served on December 12, 2022, is cancelled effective immediately.

The Tenants are entitled to recover the cost of their application fee. Pursuant to section 72(2)(a) of the Act the Tenants may deduct \$100 from their next rent payment.

Conclusion

I grant the Tenants' application.

The Notice is cancelled effective immediately and the Tenants may deduct \$100 from their next payment of rent.

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: April 13, 2023

Residential Tenancy Branch