



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC MNDC

This hearing dealt with the tenant's Application for Dispute Resolution under the *Residential Tenancy Act* (the "*Act*"), seeking to cancel 1 Month Notice to End Tenancy for Cause.

The tenant and an agent for the landlord (the "agent") attended the hearing. The hearing process was explained to the parties and an opportunity was given to ask questions about the hearing process. Thereafter the parties gave affirmed testimony, were provided the opportunity to present their evidence orally and in documentary form prior to the hearing, and make submissions to me.

The agent confirmed that the landlord received the evidence submitted by the tenant and had the opportunity to review it prior to the hearing. The agent confirmed that the landlord did not serve the tenant with their evidence. As a result, the landlord's evidence was excluded as it was not served in accordance with the rules of procedure. As an alternative, the agent was provided the ability to read the evidence of the landlord into evidence orally during the hearing, if required.

Preliminary and Procedural Matter

The tenant applied for a monetary order in the amount of \$50.00, however, did not specify details in his application regarding the particulars of his monetary claim. Pursuant to section 59(5)(a) of the *Act*, I am refusing to hear the tenant's monetary claim as the tenant failed to provide sufficient particulars of their claim for compensation, as is required by section 59(2)(b) of the *Act*. The tenant is at liberty to reapply for a monetary order and provide the full particulars of that claim in his application.

Issue to be Decided

- Should the 1 Month Notice to End Tenancy for Cause be cancelled?

Background and Evidence

The parties agreed that a verbal tenancy agreement exists. The parties agreed that the tenant was served with a 1 Month Notice to End Tenancy for Cause (the "Notice") on or about October 29, 2012. The tenant disputed the Notice on October 30, 2012.

On the Notice, the landlord indicated the following reasons for the Notice:

- Tenant has engaged in illegal activity that has, or is likely to jeopardize a lawful right or interest of another occupant or the landlord and,
- Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

The tenant submitted a copy of the Notice in evidence. The tenant testified that he felt the Notice was not valid as the landlord failed to fill out his information and date the Notice. The agent testified that in his opinion, the reason for the Notice, which was clutter on the tenant's patio, has been rectified to an acceptable level. As a result, the agent withdrew the Notice during the hearing.

Analysis

Based on the documentary evidence and the oral testimony provided during the hearing, and on the balance of probabilities, I find the following.

The landlord served the tenant with a 1 Month Notice to End Tenancy for Cause. The tenant disputed the Notice in accordance with the *Act*. In the case of disputed notices, the landlord who has served the Notice has the burden of proof to prove the reasons set out in the Notice at a dispute resolution hearing.

Section 52 of the *Act* states:

Form and content of notice to end tenancy

52 In order to be effective, a notice to end a tenancy must be in writing and must

- (a) be signed and **dated by the landlord** or tenant giving the notice,
- (b) give the address of the rental unit,
- (c) state the effective date of the notice,

(d) except for a notice under section 45 (1) or (2) [*tenant's notice*], state the grounds for ending the tenancy, and

(e) when given by a landlord, be in the approved form.

[emphasis added]

The Notice was not completed in full by the landlord as it was missing the date it was issued, which is required pursuant to section 52 of the *Act*. As the Notice was not completed correctly by the landlord, **I find** the Notice is invalid. Therefore, I **cancel** the 1 Month Notice to End Tenancy for Cause. **I order** that the tenancy continues until ended in accordance with the *Act*.

In addition to the above, the agent withdrew the Notice during the hearing, however, this decision has addressed that the Notice was invalid and cancelled before it was withdrawn by the agent during the hearing.

Conclusion

I cancel the 1 Month Notice to End Tenancy for Cause as it is invalid. I order the tenancy to continue until ended in accordance with the *Act*.

For the benefit of both parties, I am including a copy of *A Guide for Landlords and Tenants in British Columbia* with my Decision.

This decision is final and binding on the parties, except as 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: December 04, 2012

Residential Tenancy Branch