



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNC, OPC, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by two tenants seeking to cancel a 1 Month Notice to End Tenancy for Cause dated July 30, 2013. The hearing was also convened to hear the landlord's application seeking an Order of Possession against each of the two tenants based on the One-Month Notice for Cause.

Both parties were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained. The participants had an opportunity to submit documentary evidence prior to this hearing, and the evidence has been reviewed. The parties were also permitted to present affirmed oral testimony and to make submissions during the hearing. I have considered all of the affirmed testimony and relevant evidence that was properly served.

Issue(s) to be Decided

Should the One Month Notice to End Tenancy for Cause be cancelled, or should it be enforced with an Order of Possession issued to the landlord?

Preliminary Matter

At the outset of the hearing, it was established through testimony from both parties, that the landlord's 1Month Notice to End Tenancy for Cause and the landlord's application for Dispute Resolution, named two different tenants in the Style of Cause, despite each having their own separate tenancy agreement. In addition, the tenant's application was made by two applicants, each having a separate tenancy agreement with the landlord.

Section 59(2) of the Act states that an application for dispute resolution must be in the applicable, approved form and include full particulars of the dispute that is the subject of the dispute resolution proceedings.

Section 59(5) states that the application for dispute resolution may be declined if, in the dispute resolution officer's opinion the application does not disclose a dispute that may be determined or the application does not comply with section 59(2).

Section 62(4)(b) of the Act states that a dispute resolution officer may dismiss all or part of an application for dispute resolution if the application does not disclose a dispute that may be determined under this Part.

Residential Tenancy Rules of Procedure, Rule 2.3 states that, if, in the course of the dispute resolution proceeding the arbitrator determines that it is appropriate to do so, the arbitrator may dismiss unrelated disputes contained in a single application with or without leave to reapply.

Based on the evidence before me, I find that the landlord issued a single One-Month Notice to End Tenancy for Cause to two separate tenants each under their own tenancy agreement and proceeded to make a single application seeking one Order of Possession against these two separate tenants.

Therefore, I find that it necessary to decline to proceed with the dispute as there must be a separate Notice and a separate application for each tenant unless they are co-tenants sharing the same tenancy agreement. I also find that I am not able to consider the tenant's application, as each of the two tenant applicants has their own tenancy agreement and these two tenancies must be dealt with independently, not jointly. Given the above, I hereby decline to hear this matter and make no findings.

Conclusion

Both the landlord's and the tenant's applications could not be heard because the parties included disputes regarding two separate tenancies under a single application and cross application.

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: August 20, 2013

Residential Tenancy Branch