



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNC

Introduction

This hearing was scheduled in response to the tenant's application for cancellation of a 1 month notice to end tenancy for cause. The tenant's advocate attended and gave affirmed testimony.

The tenant's advocate testified that her understanding / expectation was that the tenant would attend her office in order to participate in this hearing. In the tenant's unexplained absence, the tenant's advocate also testified that she had received no particular instructions from the tenant in relation to the hearing.

Further, the tenant's advocate testified that the application for dispute resolution and notice of hearing (the "hearing package") were served on the landlord by way of registered mail. Evidence provided by the tenant's advocate includes the Canada Post tracking number for the registered mail, and the Canada Post website informs that the item was "successfully delivered." Despite this, the landlord did not appear.

Issue(s) to be Decided

Whether the tenant is entitled to the above under the Act, Regulation or tenancy agreement.

Background and Evidence

Relevant documentary evidence before me is limited to the tenant's application for dispute resolution, the notice of a dispute resolution hearing, and a 1 month notice to end tenancy for cause.

Pursuant to section 47 of the Act which speaks to **Landlord's notice: cause**, it appears that the landlord served the tenant with a 1 month notice to end tenancy dated October 27, 2013. The date shown on the notice by when the tenant must vacate the unit is November 30, 2013, and five (5) different reasons are identified on the notice in support of its issuance. While it is not known how the notice was served, the tenant filed an

application to dispute it on November 8, 2013. It is unknown whether or not the tenant continues to reside in the unit.

Analysis

Based on the very limited documentary evidence, and the affirmed / undisputed testimony of the tenant's advocate, I find that the tenant was served with a 1 month notice to end tenancy for cause dated October 27, 2013. I further find that the tenant filed an application to dispute the notice on November 8, 2013. In the absence of an application for an order of possession by the landlord, and in the absence of an appearance at the hearing by the landlord or the landlord's agent, the 1 month notice to end tenancy for cause is hereby set aside, and the tenancy continues uninterrupted.

Conclusion

The 1 month notice to end tenancy is hereby set aside.

The tenancy continues in full force and effect.

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: December 19, 2013

Residential Tenancy Branch

