



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC RP RR O

Introduction

This hearing was convened as a result of the tenants' application for dispute resolution under the *Residential Tenancy Act* (the "Act"). The tenants applied to cancel a 1 Month Notice to End Tenancy for Cause (the "1 Month Notice"), for an order directing the landlord to make repairs to the unit, site or property, to allow the tenant to reduce rent for repairs, services or facilities agreed upon but not provided, and "other" which the tenants described as "no electricity in our kitchen + the living room."

The tenants and a social worker who was acting as an advocate for the tenants attended the hearing. As the landlords did not attend the hearing, service of the Notice of a Dispute Resolution Hearing (the "Notice of Hearing") was considered. The tenants testified that they served the Notice of Hearing package which contained evidence on landlord "SW" on January 9, 2014 at 6:00 p.m. or 7:00 p.m. The tenants stated that they tried about five times to serve the landlord before she finally accepted the package and then later advised them that the landlords would not be attending the hearing. As a result, I am satisfied that the landlords were served with the Notice of Hearing and evidence on January 9, 2014, and were aware of the date and time of the hearing, but did not call into the hearing for the entire duration of the hearing which was eleven minutes.

Preliminary and Procedural Matter

Rule 2.3 of the Residential Tenancy Branch Rules of Procedure authorizes me to dismiss unrelated disputes contained in a single application. In these circumstances the tenants indicated several matters of dispute on the Application for Dispute Resolution, the most urgent of which is their application to set aside the 1 Month Notice to End Tenancy. I find that not all the claims on this Application for Dispute Resolution are sufficiently related to be determined during this proceeding. I will, therefore, only consider the tenants' request to set aside the 1 Month Notice to End Tenancy at this

proceeding. The balance of the tenants' applications is dismissed, **with leave to re-apply.**

Issue to be Decided

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

Background and Evidence

A copy of the tenancy agreement was submitted in evidence. A month to month tenancy began on July 15, 2012 although the tenancy agreement indicates that monthly rent was \$770.00 per month including cablevision, the tenants stated that by mutual agreement of the parties after the first month, rent was reduced to \$750.00 per month as cablevision was no longer provided by the landlord.

The tenants confirmed receiving a 1 Month Notice dated January 2, 2014 on that date, with an effective vacancy date of February 2, 2014, which would automatically correct under the *Act* to February 28, 2014 as rent is due on the first of the month. The tenants disputed the 1 Month Notice on January 9, 2014 which is within the permitted 10 day timeline under section 47 of the *Act*. The landlords listed the following reason on the 1 Month Notice:

1. Tenant has allowed an unreasonable number of occupants in the unit/site.

The landlords did not attend the hearing to prove that the 1 Month Notice was valid and should be upheld.

Analysis

Based on the documentary evidence and the undisputed testimony of the tenants, and on the balance of probabilities, I find the following.

When tenants dispute a Notice, the onus of proof reverts to the landlords to prove that the Notice is valid and should be upheld. If the landlords fail to prove the Notice is valid, the Notice will be cancelled.

As the landlords did not attend the hearing to present evidence to support the 1 Month Notice, **I find** the landlords have failed to prove that the 1 Month Notice is valid. As a result, **I cancel** the 1 Month Notice dated January 2, 2014. **I ORDER** that the tenancy continue until ended in accordance with the *Act*.

Conclusion

The 1 Month Notice to End Tenancy for Cause dated January 2, 2014 is cancelled, due to insufficient evidence. The tenancy has been ordered to continue until ended in accordance with the *Act*.

This decision is final and binding on the parties, unless 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: February 21, 2014

Residential Tenancy Branch

