



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction and Preliminary Matter

This hearing convened as a result of a Tenants' application for Dispute Resolution wherein the Tenants sought to Cancel a 1 Month Notice to End Tenancy for Cause issued on May 4, 2015 (the "Notice") and to recover the filing fee.

Both parties appeared at the hearing. The Tenant, A.O., appeared on his own behalf and as agent for the other tenant, L.C.-O. The hearing process was explained and the participants were asked if they had any questions. Both parties provided affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

The parties agreed that all evidence that each party provided had been exchanged. No issues with respect to service or delivery of documents or evidence were raised.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

1. Should the Notice be cancelled?
2. Are the Tenants entitled to recover the filing fee?

Background and Evidence

The Tenants testified that he received both pages of the Notice on May 4, 2015. The section of the Notice which allows the Landlord to note the reasons for issuing the Notice was left blank.

The Landlord confirmed she served both pages, and that she left the second page blank as she was not sure what to write on the document.

A.O. testified that the Landlord had informed him that she wished to move a family member into the rental unit. The Landlord confirmed this was her intention.

Analysis

Section 47 of the *Residential Tenancy Act* provides authority for a Landlord to end a tenancy for cause. Section 47(3) provides that a notice issued for cause must comply with section 52.

Section 52 provides as follows:

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.

As previously discussed, the Notice submitted in evidence does not disclose the grounds for ending the tenancy, or the reasons for issuing the Notice and as such does not comply with section 52.

Section 52(d) ensures the principles of fundamental justice are preserved. By failing to provide the Tenants with reasons for issuing the Notice, the Tenants are deprived their right to know the case before them. One of the principles of fundamental justice is that parties to a dispute know the case before them, so that they are afforded the ability to respond and defend any allegations.

Section 47(3) is mandatory in that a notice issued for cause *must* comply with section 52. There is no discretion. Accordingly, the Notice is ineffective and must be cancelled.

The Tenants' application to cancel the Notice is granted. The Tenants, having been substantially successful are entitled to recover the fee paid to file their application. They may reduce their July rent by \$50.00 to recover this amount.

Conclusion

The Notice failed to provide reasons for ending the tenancy and did not comply with section 52. The Notice is cancelled and the Tenants are to recover the \$50.00 filing fee from their July 2015 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 *Residential Tenancy Act*.

Dated: June 25, 2015

Residential Tenancy Branch

