



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL

Introduction

This hearing was convened to hear matters pertaining to an Application for Dispute Resolution filed by the Tenant on November 30, 2015. The Tenant filed seeking an order to cancel a 2 Month Notice to end tenancy for landlord's use.

The hearing was conducted via teleconference and was attended by the Landlord. No one was in attendance on behalf of the Tenant despite this hearing being convened to hear matters pertaining to the Tenant's application.

Issue(s) to be Decided

Should this application be dismissed with or without leave to reapply?

Background and Evidence

The Landlord confirmed that he had not served the Tenant a 2 Month Notice to end tenancy on the RTB form. Rather, he only served the Tenant a letter dated November 16, 2015 as provided in the Tenant's evidence.

There was no additional evidence or testimony provided in support of the Tenant's application as no one attended on behalf of the Tenant.

Analysis

Section 61 of the *Residential Tenancy Act* states that upon accepting an application for dispute resolution, the director must set the matter down for a hearing and that the Director must determine if the hearing is to be oral or in writing. In this case, the hearing was scheduled for an oral teleconference hearing.

In the absence of the applicant Tenant, the telephone line remained open while the phone system was monitored for ten minutes and no one on behalf of the applicant Tenant called into the hearing during this time.

Rule 10.1 of the Rules of Procedure provides as follows:

10.1 Commencement of the hearing The hearing must commence at the scheduled time unless otherwise decided by the arbitrator. The arbitrator may conduct the hearing in the absence of a party and may make a decision or dismiss the application, with or without leave to re-apply.

In the absence of any submissions from the applicant Tenant I ordered her application dismissed.

Section 52 of the *Act* stipulates that 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.

The undisputed evidence was the Landlord served the Tenant a written letter as the notice to end tenancy and did not serve her an official 2 Month Notice to end tenancy. That letter did not include the following information that was required in accordance with the *Act*: the address of the rental unit; the service address for the Landlord; the applicable sections of the *Act*; and information regarding how the Tenant may dispute the notice. Therefore, I find the letter Notice to be invalid and of no force or effect.

Based on the above, and in the absence of policy regarding recent legislative changes to section 55 of the *Act*, I declined to issue the Landlord an Order of Possession as a valid Notice to end tenancy had not be served upon the Tenant.

The Landlord is at liberty to serve the Tenant a valid 2 Month Notice to end tenancy if he wished to proceed with having the Tenant vacate the rental unit.

Conclusion

The Tenant was not present at the teleconference hearing and her application was dismissed.

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: January 25, 2016

Residential Tenancy Branch

