



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes cnl, rp, ff

Introduction

The tenants applies for an order cancelling a two month Notice to End Tenancy, for an order for repairs, and for an order to recovery their filing fee.

The female tenant attended the hearing. The landlord did not attend. The tenant testified she had served the landlord by way of registered mail to the address he had provided on the two month notice. Service by way of registered mail is a permitted form of service under section 89 of the Residential Tenancy Act, and pursuant to the deeming provisions in section 90, the landlord has been deemed to have received the package.

The tenant confirmed that the key issue in dispute was the dispute over the validity of the two month notice, but there is also a repair claim noted in the application as well. I have not dealt with this latter claim. One of the objectives of the Rules of Procedure for hearings of this nature is to ensure a consistent, efficient and just process for resolving disputes (Rule 1.3). It is not possible within this context to deal with an array of issues of concern to the tenant in one short hearing. Accordingly, hearings are generally limited to issues that are related in fact and law. In this case the tenant's request for an order for repairs is not related to the dispute over the two month Notice given by the landlord. That repair claim is therefore dismissed pursuant to Rule 2.3, with liberty to re-apply.

Issues to Be Decided

Is the Notice to End Tenancy effective to end this tenancy, or should the Notice be cancelled, and the tenancy continue?

Background and Evidence

This tenancy began November 1, 2014. The monthly rent is \$1,350.00 due on the 1st day of each month. All rent has been paid, including rent for April.

The tenant submits that although the landlord has provided a variety of notices to end the tenancy, there has not been one that has been in the proper form and properly served. There was an initial request given in letter form by way of email. One two month notice was handed to the tenants (on February 17) and was in the correct form, but it had an incorrect date as to the effective end date of the tenancy, and failed to provide the actual reason for the giving of the notice. That notice was amended as to the date, and as to the reason for ending the tenancy, but was provided only by email (on February 18).

Analysis

Section 52 of the Residential Tenancy Act is clear about the form of notice that must be used by a landlord. The notice must be signed by the landlord and dated, must give the address of the rental unit, must state the effective date of the notice, must state the grounds for ending the tenancy, and must be in the approved form.

Accordingly, any notice that fails to meet these requirements is not a valid notice to end the tenancy. This includes email letters requesting that the tenant move out, such as the one given to the tenants on February 9. This also includes the Notice that was handed to the tenants February 17 and was in the correct form, but which failed to check off any box to clarify the grounds and reasons for giving the notice.

Section 88 of the Residential Tenancy Act sets out the requirements to serve documents such as a Notice to end a tenancy. While numerous methods are permitted, service by email is not one of them. Accordingly, although the form of the Notice provided by email on February 18 appears valid, that Notice was never properly served to the tenants.

I find therefore, that none of the Notices given by the landlord that purport to end this tenancy are effective to end the tenancy. All are declared cancelled and void. The tenancy shall continue.

As the tenants are successful with their claim, I order that they recover the \$100.00 filing fee from the landlord. The landlord may pay this sum directly to the tenants, or alternatively the tenants may deduct this sum from a future rental payment.

Conclusion

All two month notices are cancelled, and the tenancy continues.

The landlord must pay the tenants the sum of \$100.00, as recovery of their filing fee.

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: April 13, 2016

Residential Tenancy Branch