



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

Pursuant to section 58 of the *Residential Tenancy Act* (“Act”), I was designated to hear this matter. This hearing dealt with the tenant’s application for:

- cancellation of the landlord’s 1 Month Notice to End Tenancy for Cause, dated February 14, 2016 (“1 Month Notice”), pursuant to section 47.

While the respondent landlord and her English language translator, JD (collectively “landlord”) attended the hearing by way of conference call, the applicant tenant did not, although I waited until 11:19 a.m. in order to enable the tenant to connect with this teleconference hearing scheduled for 11:00 a.m. The landlord confirmed that her translator had authority to assist her at this hearing. The landlord was given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

The landlord confirmed receipt of the tenant’s application for dispute resolution hearing package (“Application”). In accordance with sections 89 and 90 of the *Act*, I find that the landlord was duly served with the tenant’s Application.

The landlord testified that the 1 Month Notice was personally served to the tenant on February 14, 2016. The notice indicates an effective move-out date of March 15, 2016. In accordance with section 88 of the *Act*, I find that the tenant was served with the landlord’s 1 Month Notice on February 14, 2016. I also note that the tenant applied to cancel the 1 Month Notice on February 24, 2016 and confirmed in her Application that she received the notice on February 14, 2016 and was disputing it at this hearing.

At the hearing, the landlord verbally requested an Order of Possession.

Preliminary Issue – Dismissal of Tenant’s Application

Rule 7.3 of the Residential Tenancy Branch *Rules of Procedure* provides as follows:

7.3 Consequences of not attending the hearing: If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.

In the absence of any submissions or appearance by the tenant, I order the tenant's Application dismissed without leave to reapply.

Issues to be Decided

Is the landlord entitled to an Order of Possession for cause?

Background

The landlord testified that this month-to-month tenancy began approximately two years ago, but she did not provide a date. The landlord stated that monthly rent in the current amount of \$550.00 is payable on the first day of each month. The landlord confirmed that a security deposit of \$275.00 was paid by the tenant and the landlord continues to retain this deposit. Neither party provided a copy of the written tenancy agreement for this hearing.

The landlord confirmed that she issued the 1 Month Notice without indicating a reason on it. She said that she did not know that she was required to indicate a reason. The landlord said that there were complaints about the tenant from neighbours. In the "details of the dispute" section of her Application, the tenant said that the landlord wanted her family to move into the unit.

Analysis

Section 55(1) of the *Act* reads as follows:

55 (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant to the landlord an order of possession of the rental unit if
(a) the landlord's notice to end tenancy complies with section 52 [form and content of notice to end tenancy], and

(b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

I find that the landlord's notice does not comply with section 52(d) of the *Act* which requires the notice to "state the grounds for ending the tenancy." The landlord did not indicate a reason in the 1 Month Notice. The landlord stated a different reason for ending the tenancy verbally, than the reason indicated by the tenant in her application. Accordingly, the landlord's 1 Month Notice, dated February 14, 2016, is of no force or effect.

Although I have dismissed the tenant's application to cancel the 1 Month Notice, I find that the landlord is not entitled to an order of possession for the above reasons.

Conclusion

The tenant's Application is dismissed without leave to reapply.

The landlord is not entitled to an order of possession.

The landlord's 1 Month Notice, dated February 14, 2016, is of no force or 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: April 14, 2016

Residential Tenancy Branch