



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the "1 Month Notice") pursuant to section 47.

The landlord did not participate in the conference call hearing, which lasted approximately 10 minutes. The tenant and his advocate attended the hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The tenant testified that on August 3, 2016 he forwarded the landlord's application for dispute resolution via registered mail to the landlord. The tenant provided a Canada Post receipt and tracking number as proof of service. Based on the testimony of the tenant and in accordance with sections 89 and 90 of the *Act*, I find that the landlord has been deemed served with the application on August 8, 2016, the fifth day after its registered mailing.

Issue(s) to be Decided

Should the landlord's 1 Month Notice be cancelled? If not, is the landlord entitled to an order of possession?

Background and Evidence

The tenant testified that this tenancy began on January 1, 2014 on a month-to-month basis. Rent in the amount of \$800.00 is payable on the first of each month. The tenant remitted \$400.00 for the security deposit at the start of the tenancy. The tenant continues to reside in the rental unit.

The tenant acknowledged receipt of the landlord's 1 Month Notice on August 26, 2016. The grounds to end the tenancy cited in that 1 Month Notice were;

- the tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord
- the tenant or a person permitted on the property by the tenant has seriously jeopardized the health or safety or lawful right of another occupant or the landlord
- the tenant or a person permitted on the property by the tenant has put the landlord's property at significant risk
- the tenant has engaged in illegal activity that has, or is likely to damage the landlord's property
- the tenant has engaged in illegal activity that has, or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant
- the tenant has engaged in illegal activity that has, or is likely to jeopardize a lawful right or interest of another occupant or the landlord

Analysis

Section 46 of the *Act* provides that upon receipt of a notice to end tenancy for cause the tenant may, within ten days, dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. If the tenant files an application to dispute the notice, the landlord bears the burden to prove the grounds for the 1 Month Notice. Because the landlord did not attend the hearing I find he has failed to satisfy the burden of proof and I therefore allow the tenant's application to cancel the 1 Month Notice.

Conclusion

The tenant's application to cancel the 1 Month Notice is upheld.

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: September 21, 2016

Residential Tenancy Branch