



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding COVERT INVESTMENTS
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC, O

Introduction

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

- cancellation of the landlords' 1 Month Notice to End Tenancy for Cause, dated August 31, 2016 ("1 Month Notice"), pursuant to section 47; and
- other unspecified remedies.

The two landlords did not attend this hearing, which lasted approximately 13 minutes. The tenant attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The tenant confirmed that her agent had permission to speak on her behalf at this hearing.

The tenant testified that she personally served two of the landlords' agents with the tenant's application for dispute resolution hearing package ("Application") on September 16, 2016. The tenant said that she served landlord SH, who is named in this application, as well as the daughter of the owner of the landlord company named in this application. The tenant's agent confirmed that she witnessed this service. The landlords sent in written evidence, dated October 24, 2016, which was received at the Residential Tenancy Branch ("RTB") on October 27, 2016, indicating their intention to attend this hearing regarding the tenant's application. In accordance with section 89 of the *Act*, I find that the landlords were served with the tenant's application on September 16, 2016.

The tenant confirmed that she personally served the agent of the new landlord company owner of the rental unit, OPI ("new owner") with her written evidence package on October 24, 2016. I advised the tenant that I could not consider her written evidence at this hearing or in my decision because it was received late by the new landlord owner, less than 14 days prior to this hearing, contrary to Rule 3.14 of the RTB *Rules of Procedure*.

The tenant testified that she received the landlords' 1 Month Notice on August 31, 2016 when it was served to her husband, with whom she lives in the rental unit. The reasons indicated on the notice are that the *"tenant or a person permitted on the property by the tenant has: significantly interfered with or unreasonably disturbed another occupant or the landlord; and seriously jeopardized the health or safety or lawful right of another occupant or the landlord."* The effective move-out date on the notice is September 30, 2016. In accordance with sections 88 and 90 of the *Act*, I find that the tenant was duly served with the landlords' 1 Month Notice on August 31, 2016.

Preliminary Issues

At the outset of the hearing, the tenant testified that she was not seeking any other unspecified remedies. Accordingly, this portion of the tenant's application is withdrawn.

This decision is binding upon the new owner, who assumed this tenancy from the former two landlords (collectively "landlords"). As per the tenant and a letter, dated October 24, 2016, from the new owner's written evidence package, the rental unit building was sold to the new owner on October 1, 2016. I find that the tenant correctly disputed the 1 Month Notice and named the former two landlords of this rental unit as respondents in this Application. The 1 Month Notice was issued in August 2016 by the former two landlords and the tenant's application was filed in September 2016, before the new owner took over in October 2016.

I find that the new owner of the rental unit was aware of this hearing and the tenant's application, as indicated in their written evidence letter, dated October 24, 2016. In that letter, it states that the "previous management ...handed over the eviction file and advised us to proceed with it."

Issue to be Decided

Should the landlords' 1 Month Notice be cancelled? If not, are the landlords entitled to an order of possession?

Analysis

In accordance with section 47(4) of the *Act*, the tenant must file her application for dispute resolution within ten days of receiving the 1 Month Notice. In this case, the tenant received the 1 Month Notice on August 31, 2016 and first filed her Application on September 9, 2016. The tenant later amended her application on September 15, 2016.

Accordingly, I find that the tenant's first application was filed within the ten day limit under the *Act*.

Where a tenant applies to dispute a 1 Month Notice, the onus is on the landlords to prove, on a balance of probabilities, the grounds on which the 1 Month Notice is based. The landlords did not appear at this hearing. The landlords did not meet their onus of proof. Therefore, as advised to the tenant during the hearing, the landlords' 1 Month Notice, dated August 31, 2016, is cancelled and of no force or effect. This tenancy will continue until it is ended in accordance with the *Act*.

Conclusion

I allow the tenant's application to cancel the landlords' 1 Month Notice. The landlords' 1 Month Notice, dated August 31, 2016, is cancelled and of no force or effect. This tenancy continues until it is ended in accordance with the *Act*. The tenant's application for other unspecified remedies is withdrawn.

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: November 03, 2016

Residential Tenancy Branch