



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 an application by the tenant pursuant to the *Residential Tenancy Act* ("the Act") for orders as follows:

- to cancel a 1 Month Notice to End Tenancy given for Cause ("1 Month Notice") pursuant to section 47 of the *Act*;

The tenant and his advocate attended the hearing while the landlord did not. The tenant was given full opportunity to be heard, to present her sworn testimony and to make submissions and present evidence under oath.

The advocate for the tenant stated that the tenant he was served in person with a 1 Month Notice on February 7, 2017. Pursuant to section 88 of the *Act*, the tenant is found to have been served with the 1 Month Notice on this same day.

The advocate testified that she served the landlord named on the 1 Month Notice by way of Registered Mail on February 17, 2017 with the tenant's notice of Dispute Resolution and evidentiary package. A copy of the Canada Post tracking number was provided to the hearing. Pursuant to section 90 of the *Act*, I find that the landlord was served by the tenant with the Evidentiary and Application for Dispute Resolution hearing package ("Application for Dispute") on February 23, 2017.

Issue(s) to be Decided

- Should the landlord's 1 Month Notice be cancelled? If not, should an Order of Possession be issued for cause?

Background and Evidence

The tenant provided testimony that the tenancy in question began on December 12, 2012. Rent is currently \$420.00 and a security deposit of \$200.00 continues to be held by the landlord.

On February 7, 2017 the tenant received a Notice to End Tenancy for Cause from the landlord. Specifically the notice sought an end to the tenancy based on;

- The tenant or a person permitted on the property by the tenant has –
Significantly interfered with or unreasonably disturbed the landlord or other occupants
Engaged in illegal activity that has adversely affected the quiet enjoyment, security, safety or physical well-being of the landlord or other occupant.
Put the landlord's property at significant risk.
Engaged in illegal activity that has caused or is likely to cause damage to the rental property, or engaged in illegal activity that has risked a lawful right or interest of the landlord or other occupant

The tenant denied any knowledge of the allegations.

Analysis – Order of Possession

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 the landlord 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 allowed. The Notice is of no continuing force or effect. This tenancy continues until ended in accordance with the *Act*.

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: March 16, 2017

Residential Tenancy Branch