



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding NEIGHBOURHOOD HOUSING SOCIETY
and [tenant name suppressed to protect privacy]

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.

While the tenant attended the hearing by way of conference call, the landlord did not. I waited until 11:10 a.m. to enable the landlord to participate in this scheduled hearing for 11:00 a.m. The tenant's agent, SS ('tenant'), testified on behalf of the tenant in this hearing, and was given full authority to do so. The tenant's agent was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

Rule 7.3 of the 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.

The tenant provided sworn, undisputed testimony that he had served the landlord with his application for dispute resolution hearing package ("Application") and evidence by way of registered mail on March 6, 2017. In accordance with sections 88, 89, and 90 of the *Act*, I find that the landlord was deemed served with the Application and evidence.

The tenant confirmed receipt of the landlord's 1 Month Notice To End Tenancy for Cause ('1 Month Notice'), with an effective date of March 31, 2017, on February 24, 2017. Accordingly, I find that the 1 Month Notice was served to the tenant in accordance with section 88 of the *Act*.

Issues

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 provided the following undisputed testimony as the landlord did not attend. This month-to-month tenancy began eighteen years ago with monthly rent currently set at \$375.00 payable on the first of each month. The tenant continues to reside in the rental suite.

The tenant disputes the reason provided on the landlord's 1 Month Notice which stated that the tenant's suite "is extremely cluttered and smells badly, constituting health and fire hazard to other residents and

landlord”, and the unite is “infested with bed bugs and tenant is refusing to prepare the suite for bed bugs treatment and get rid of infested furniture”.

The tenant testified that he no longer had bed bugs in his suite, and that all issues have been resolved.

The tenant is seeking cancellation of the landlord’s 1 Month Notice as the landlord did not establish why this tenancy should end.

Analysis

According to subsection 47(4) of the *Act*, a tenant may dispute a notice to end tenancy for landlord’s use by making an application for dispute resolution within ten days after the date the tenant receives the notice. The tenant received the 1 Month Notice on February 24, 2017, and filed his application on March 3, 2017. Therefore, the tenant is within the time limit under the *Act*. The onus, therefore, shifts to the landlord to justify the basis of the 1 Month Notice.

In the absence of any evidence or submissions from the landlord in this hearing, I find that the landlord had not provided sufficient evidence to demonstrate that this tenancy should end on the basis of the 1 Month Notice. Under these circumstances, I am allowing the tenant’s application to cancel the landlord’s 1 Month Notice, and this tenancy is to continue as per the *Act*.

Conclusion

I allow the tenant’s application to cancel the 1 Month Notice, which is hereby cancelled. The 1 Month Notice of February 24, 2017 is of no 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: April 3, 2017

Residential Tenancy Branch