



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, MT, OPC

Introduction

This hearing dealt with cross applications. The tenant applied to cancel a 1 Month Notice to End Tenancy for Cause and more time to make the application. The landlord applied for an Order of Possession for cause. Both parties appeared or were represented at the hearing and were provided the opportunity to make relevant submissions, in writing and orally pursuant to the Rules of Procedure, and to respond to the submissions of the other party.

At the outset of the hearing, I confirmed service of hearing documents upon each other. I heard that the landlord had submitted and served a written submission just yesterday. The submission was not in the file before me and I informed the parties that the landlord may make his submissions orally during the hearing.

I determined that the tenant had filed his Application for Dispute Resolution within 10 days of receiving the 1 Month Notice to End Tenancy for Cause and it was not necessary for him to seek an extension of time to file. Therefore, I did not consider this request further.

Issue(s) to be Decided

Should the 1 Month Notice to End Tenancy be upheld or cancelled?

Background and Evidence

The tenancy started on February 1, 2010 and the tenant is currently required to pay rent, including parking, of \$980.00 on the first day of every month on a month-to-month basis.

The landlord personally served the tenant with a 1 Month Notice to End Tenancy for Cause on March 27, 2017 with a stated effective date of April 30, 2017 (the Notice). The tenant filed to dispute the Notice within 10 day so receiving it.

The Notice indicates the following reasons for ending the tenancy in the second page:

- Tenant or a person permitted on the property by the tenant has:
 - Significantly interfered with or unreasonably disturbed another occupant or the landlord,
 - Seriously jeopardized the health or safety or lawful right of another occupant or the landlord,
 - Put the landlord's property at significant risk.
- Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

The space on the form that is entitled "Details of Cause" was not completed although it appears that the landlord started to write something and then crossed it out. Both parties provided consistent testimony that the Notice was not accompanied by an attached page or document.

The landlord explained that he did not complete the "Details of Cause" section because he had not gathered all of the complaint letters from the other tenants at the time of issuing the Notice. The landlord stated that the eviction notice was issued following a disturbance that took place on March 24, 2017.

The tenant stated that the landlord came to talk to him on March 27, 2017 about the incident that occurred on March 24, 2017 and then 20 minutes later the landlord returned with the eviction notice. The tenant assumed the eviction notice pertained to the March 24, 2017 incident but did not understand why he was receiving an eviction notice as he was the victim of assault on March 24, 2017.

The tenant's advocate submitted that she and the tenant assumed the Notice pertained to the March 24, 2017 incident but were uncertain if the landlord intended to evict for other reasons as well. I noted that the tenant had submitted letter from Victim Services and letters from friends attesting to not being occupants of the rental unit. The advocate explained that they were trying to cover all bases in case the landlord was evicting for other reasons.

The landlord did refer to and submit as evidence breach letters that were written for various reasons over a number of years including: allegations of additional occupants; disturbing other tenants; and, paying rent late.

Analysis

Section 52 of the Act provides for the form and content of notices to end tenancy. Among other things, in order for a notice to end tenancy to be effective it must be in the approved form when given by a landlord.

The Director has the authority to approve forms pursuant to section 10 of the Act, which provides:

Director may approve forms

10 (1) The director may approve forms for the purposes of this Act.

(2) Deviations from an approved form that do not affect its substance and are not intended to mislead do not invalidate the form used.

The 1 Month Notice to End Tenancy for Cause that is in the approved form provides a section entitled Details of Cause. In this section, the form states: Include any dates, times, people or other information that says who, what, where or when caused the issue. The RTB may cancel the notice if details are not described. Attach separate sheet(s) if necessary (signed and numbered).

The notice to end tenancy that is the subject of this proceeding was in the approved form but I find that it was not sufficiently completed given the lack of “details of cause”. In keeping with the principles of natural justice, a person receiving an eviction notice is entitled to know the reason(s) for its issuance so that they may adequately respond or prepare a defence. In this case I find that the landlords’ failure to complete the Details of Cause section of the approved form is prejudicial to the tenant as seen by the tenant’s attempts to respond to multiple issues based on assumptions and precautions.

In light of the above, I grant the tenant’s request that I cancel the 1 Month Notice to End Tenancy for Cause and I dismiss the landlord’s application for an Order of Possession. Accordingly, the tenancy continues at this time and until such time it legally ends.

It is important to note that I have made no finding as to whether the landlord has a basis under the Act for ending the tenancy. As I informed the parties during the hearing, the landlord remains at liberty to re-issue a Notice to End Tenancy should the landlord decide to pursue eviction.

Conclusion

The 1 Month Notice issued on March 27, 2017 has been cancelled because it was not sufficiently completed by the landlord and the tenancy continues at this time.

I have made no finding as to whether there were sufficient grounds for eviction and the landlord is at liberty to re-issue a notice to end tenancy if the landlord so chooses.

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: May 16, 2017

Residential Tenancy Branch