



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

Tenant's Application made March 23, 2017: CNL; LRE; OLC

Landlord's Application made April 3, 2017: OPL; MNDC; O

Introduction

This Hearing was scheduled to consider cross Applications for Dispute Resolution. The Tenant seeks to cancel a Notice to End Tenancy for Landlord's Use; to restrict or suspend the Landlord's right to access the rental unit; and an Order that the Landlord comply with the Act, regulation or tenancy agreement.

The Landlord seeks an Order of Possession; compensation for damage or loss; and other unspecified orders.

This Hearing was scheduled to be heard by teleconference at 11:00 a.m., April 28, 2017. The teleconference remained open for 10 minutes, but the Tenant did not sign into the teleconference. Therefore, his Application is dismissed.

The Landlord gave affirmed testimony at the Hearing.

The Landlord testified that she served the Tenant with her Notice of Hearing documents by handing the documents to the Tenant at the rental unit on April 6, 2017, with a witness present. I accept the Landlord's affirmed testimony and find that the Tenant was duly served on April 6, 2017. The Hearing continued with respect to the Landlord's Application only.

Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession pursuant to the provisions of Section 55 of the Act?

Is the Landlord entitled to a monetary award for unpaid rent for April, 2017?

Background and Evidence

The Landlord provided a copy of a “Notice of Termination by Landlord” issued on September 20, 2016. She submitted that the Notice is a valid notice to end the tenancy and that the Tenant should not have been allowed to make his Application to cancel it because he was outside of the time limit provided in the Act for making his Application.

The Landlord received rent for the month of April, 2017, by registered mail, on March 24, 2017. She has not cashed the check “as I consider him to be in violation and firmly believe he needs to vacate the property as of April 1, 2017”.

The Landlord testified that she has agreed with the Tenant that he will move out of the rental unit on May 6, 2017.

Analysis

Section 52 of the Act provides:

Form and content of notice to end tenancy

52 In order to be effective, a notice to end a tenancy must be in writing and must

(a) be signed and dated by the landlord or tenant giving the notice,

(b) give the address of the rental unit,

(c) state the effective date of the notice,

(d) except for a notice under section 45 (1) or (2) [*tenant's notice*], state the grounds for ending the tenancy,

(d.1) for a notice under section 45.1 [*tenant's notice: family violence or long-term care*], be accompanied by a statement made in accordance with section 45.2 [*confirmation of eligibility*], and

(e) when given by a landlord, be in the approved form.

[Reproduced as written, my emphasis added.]

In this case, I find that the Notice of Termination by Landlord is not in the approved form, and therefore is not an effective notice to end the tenancy. The Notice of Termination provides that the “property is being sold”. Section 51 of the Act provides

that in such circumstances, tenants are entitled to compensation in the equivalent of one month's rent. The approved form of a notice to end tenancy includes information for a tenant, including (but not limited to): how to dispute such a notice; and the compensation the tenant is entitled to. The Landlord's Notice of Termination provides neither of these necessary provisions.

The Landlord's application for an Order of Possession is dismissed.

The Landlord has received rent for the month of April, 2017, and is at liberty to cash the Tenant's cheque. The Landlord's application for a monetary award is also dismissed.

Conclusion

Both Applications are dismissed.

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 01, 2017

Residential Tenancy Branch