



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC CNL MNDC OLC LRE LAT O

Introduction

This hearing dealt with the tenants' Application for Dispute Resolution (the "Application") pursuant to the *Residential Tenancy Act* (the "Act") seeking to cancel three notices to end tenancy; two 1 Month Notices to End Tenancy for Cause (the "1 Month Notices"_) and one 2 Month Notice to End Tenancy for Landlord's Use of Property (the "2 Month Notice"). The tenants have also applied for \$320.00 for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, for an order directing the landlord to comply with the *Act*, regulation or tenancy agreement, to suspend or set conditions on the landlord's right to enter the rental unit, for authorization to change the locks to the rental unit, and other unspecified relief.

The tenants did not submit a copy of either 1 Month Notices or the 2 Month Notice. The landlords did supply a copy of the two 1 Month Notices but did not submit a copy of the 2 Month Notice. As a result, the 2 Month Notice was not submitted in evidence by either the tenants or the landlords.

Neither party raised any concerns regarding the service of documentary evidence upon them by the other party.

Preliminary and Procedural Matters

At the outset of the hearing, the parties agreed that the second landlord, G.Z. was not included on the tenants' application in error. Therefore, by consent of the parties and in accordance with section 64(3) of the *Act* the tenants' Application was amended to include the second landlord who was listed on the tenancy agreement, G.Z.

Rule 2.3 of the Residential Tenancy Branch Rules of Procedure authorizes me to dismiss unrelated disputes contained in a single application. In these circumstances the tenants indicated several matters of dispute on the Application which was amended by

the tenants on May 17, 2017. The most urgent matter on the amended Application is to set aside the three notices to end tenancy. I find that not all the claims on this Application are sufficiently related to be determined during this proceeding. I will, therefore, only consider the tenants request to set aside the two 1 Month Notices, and the 2 Month Notice at this proceeding. The balance of the tenants' Application is dismissed, **with leave to re-apply**.

Issues to be Decided

- Should the two 1 Month Notices be cancelled?
- Should the one 2 Month Notice be cancelled?

Background and Evidence

The tenants amended their original Application to include disputing two 1 Month Notices and one 2 Month Notice. The hearing package provided to the Applicants contains instructions on evidence and the deadlines to submit evidence, as does the Notice of Hearing provided to both parties.

Copies of both 1 Month Notices were submitted in evidence by the landlords. The first 1 Month Notice dated May 11, 2017 was not signed by either landlord and as a result was cancelled as it does not comply with section 52 of the *Act*.

The second 1 Month Notice dated May 10, 2017 lists two causes on the 1 Month Notice and has an effective vacancy date of June 9, 2017 which was automatically correct under the *Act* to June 30, 2017. The two causes listed on the 1 Month Notice dated May 10, 2017 are:

1. The tenant or a person permitted on the property by the tenant has seriously jeopardized the health or safety of lawful right of another occupant or the landlord.
2. The tenant or a person permitted on the property by the tenant has put the landlord's property at significant risk.

The male landlord (the "landlord") testified that during a visit to the rental unit he was in the backyard and one of the tenants' pitbull dogs that was leashed to a tree jumped up on him and the tenant did not make any attempt to restrain his dog and laughed at the landlord. The landlord confirmed that the pitbull did not bite the landlord. The landlord testified that the date was either May 12 or 13, 2017.

The tenant's version of the same event was that the landlord showed up to the rental unit without prior notice and that the landlord entered the backyard and that the tenant put his foot on the leash of his dogs to restrain them.

The landlord then alleged that the city has bylaws restricting pitbull dogs; however, confirmed that he did not submit any documentary evidence to support that the city had bylaws restricting pitbull dogs.

Regarding the 2 Month Notice, neither party submitted a copy of the 2 Month Notice.

Analysis

Based on the documentary evidence and the oral testimony provided during the hearing, and on the balance of probabilities, I find the following.

In the matter before me, the tenants submitted their application to cancel the 1 Month Notices on time and as a result, the onus of proves reverts to the landlords to provide sufficient evidence to support at least one of the two causes listed on the 1 Month Notice.

Firstly, and as indicated above, the 1 Month Notice dated May 11, 2017 is cancelled as it fails to comply with section 52 of the *Act* as the landlords failed to sign the notice to end tenancy and did not include the landlord's name at the bottom of the 1 Month Notice.

Secondly, regarding the 1 Month Notice dated May 10, 2017, I find the landlords have failed to provide sufficient evidence to support either of the two causes listed on the 1 Month Notice. In reaching this finding I have considered that the landlords failed to submit any supporting documentation that the city has bylaws restricting pitbull dogs in the city. Furthermore, the landlord confirmed that the pitbull dog did not bite the landlord and I find that the tenants' version of events is just as believable as the landlord's version and the landlord has the onus of proof so the landlord has failed to meet the burden of proof. I have also considered that May 12 or May 13, which is the date of the incident which prompted the issuance of the 1 Month Notice by the landlord is after the 1 Month Notice was dated May 11, 2017. Therefore, I find that the landlord's version of events is consistent with the 1 Month Notice as the incident could not possibly have occurred after the issuance of the 1 Month Notice if that incident was the reason for the 1 Month Notice being issued.

I will now deal with the 2 Month Notice. A notice to end tenancy document is not a mere technicality. In fact, it is hard to imagine another document being more relevant or

material to the tenants' claim, in particular when the tenants are asking to have the 2 Month Notice document cancelled.

The responsibility of proving a claim is on the person making the claim. As the tenants failed to provide a copy of the 2 Month Notice, I find the tenants have provided insufficient evidence for me to consider and **I dismiss** their application to cancel the 2 Month Notice as a result, **without leave to reapply**. I am unable to cancel a notice that is not before me and that has not been submitted for my review. I do not grant the landlord an order of possession under section 55 of the *Act* as the landlord also failed to submit a copy of the 2 Month Notice so I am unable to determine if the 2 Month Notice complies with section 52 of the *Act*.

Conclusion

The two 1 Month Notices are cancelled and are of no force or effect.

The tenants' application to cancel the 2 Month Notice is dismissed as the 2 Month Notice was not submitted in evidence for me to review and consider. I do not grant the landlord an order of possession under section 55 of the *Act* as the landlord also failed to submit a copy of the 2 Month Notice so I am unable to determine if the 2 Month Notice complies with section 52 of the *Act*.

This decision is final and binding on the parties, unless otherwise provided under the *Act*, and 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: June 22, 2017

Residential Tenancy Branch