



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding LEONIC INVESTMENTS INC
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

This hearing was rescheduled on a rush basis by consent of both parties as the originally scheduled hearing for June 28, 2017 was unable to proceed due to technical difficulties. Both parties spoke to a staff member of the Residential Tenancy Branch, and agreed to attend a new hearing scheduled for July 7, 2017 at 11:00 a.m., with the same Arbitrator and access codes.

While the tenant and his agent attended today's hearing by way of conference call, the landlord did not. I waited until 11:19 a.m. to enable the landlord to participate in this scheduled hearing for 11:00 a.m. The tenant's agent, ET ('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.

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.

The tenant's agent provided sworn, undisputed testimony the landlord was served with the application for dispute resolution hearing package ("Application") and evidence by

way of registered mail on May 17, 2017. A Canada Post tracking number was provided during the hearing. 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 June 30, 2017, on May 8, 2017. Accordingly, I find that the 1 Month Notice was served to the tenant in accordance with section 88 of the *Act*.

The tenant's agent requested an amendment to the tenant's name for this application as the first and last name were reversed on this application. The amendment was made to reflect the proper order of the tenant's name.

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 on June 1, 2013. The tenant continues to reside in the rental suite.

The tenant disputes the reasons provided on the landlord's 1 Month Notice which stated that:

- 1) The tenant has allowed an unreasonable number of occupants in the unit/site;
and
- 2) The tenant has engaged in illegal activity that has, or is likely to:
 - a) Damage the landlord's property; or
 - b) Adversely affect the quiet enjoyment, security, safety, or physical well-being of another occupant or the landlord.

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 cause 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 May 8, 2017, and filed his application on May 17, 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 until ended in accordance with the *Act*.

Conclusion

I allow the tenant's application to cancel the 1 Month Notice, which is hereby cancelled. The 1 Month Notice of May 8, 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: July 10, 2017

Residential Tenancy Branch