



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, MNDC, RP, LRE, LAT, RR, SS

Introduction

On May 23, 2017, the Tenant made an Application for Dispute Resolution seeking money owed or compensation for damage or loss under the Act, Regulation, or tenancy agreement; to suspend or set conditions on the Landlord's right to enter the unit; to deduct the cost of repairs or services or facilities from the rent; and for an order of substituted service.

On May 30, 2017, the Tenant amended her Application to include a request to cancel a 1 Month Notice to End Tenancy For Cause, dated May 26, 2017, ("the 1 Month Notice").

The matter was set for a conference call hearing at 11:00 a.m. on this date. The Tenant attended the teleconference hearing; however, the Landlord did not. The phone line remained open and was monitored for 30 minutes and the Landlord did not call into the hearing during this time.

The Tenant testified that she served the Landlord with the Notice of Hearing along with her documentary evidence using a courier service on May 30, 2017. The Tenant testified that she sent the Notice of hearing to Landlords address that he provided within listed within the 1 Month Notice.

The Tenant testified that she has spoken to the Landlord on the phone since the Notice of Hearing was served and the Landlord confirmed to her that he had received the mail.

The Tenant's advocate testified that he was present when the Tenant had phone conversations with the Landlord, confirming that the Landlord had received the mail. The Tenant testified that she also sent the Notice of Hearing package to the Landlord using email.

The Tenant provided a copy of the courier invoice that indicates the mail was sent to the dispute address.

Based on the evidence and affirmed testimony before me, and pursuant to section 71 of the Act, I find that the Notice of Hearing has been sufficiently served on the Landlord.

The Tenant and her advocate provided affirmed testimony and was provided the opportunity to present her evidence orally and in written and documentary form, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Preliminary and Procedural Matters

The Tenant applied for Dispute Resolution for a number of issues including a request to cancel a 1 Month Notice To End Tenancy.

The hearing was scheduled for a one hour hearing. An Arbitrator has the discretion to dismiss unrelated claims with or without leave to reapply. Since the tenancy is at risk due to the issuance of a notice to end tenancy, the primary issue to determine in this hearing is whether or not the tenancy is ending.

With the Tenant's consent, I have dismissed the Tenant's other claims with leave to reapply.

I find that the Tenant served the Notice of Hearing to the Landlord using a courier and therefore the Tenant's request for substituted service using email is not required.

Issue to be Decided

- Should the Notice dated May 26, 2017, be cancelled?

Background and Evidence

The Tenant testified that the Landlord served a 1 Month Notice To End Tenancy For Cause to her dated May 26, 2017. The Tenant received the 1 Month Notice posted to her door.

The reasons for ending the tenancy within the 1 Month Notice are:

Tenant or a person permitted on the property by the Tenant has:

- *Significantly interfered with or unreasonably disturbed another occupant or the Landlord*

Tenant has assigned or sublet the rental unit/ site without the Landlord's written consent.

The Notice provides information for Tenants who receive the Notice. The Notice states that a Tenant has the right to dispute the Notice within 10 days after receiving it by filing an Application for Dispute Resolution at the Residential Tenancy Branch.

The Tenant disputed the Notice on May 30, 2017, within the appropriate timelines.

The Landlord failed to attend the hearing to provide evidence in support of ending the tenancy.

Analysis

In the matter before me, the Landlord has the onus of proof that there is cause to end the tenancy. I find that the Landlord was served with the Notice of Hearing and failed to attend the hearing to prove the allegation within the 1 Month Notice.

Therefore, as the Landlord did not attend the hearing by 11:30 AM, I cancel the 1 Month Notice to End Tenancy For Cause, dated May 26, 2017.

I order the tenancy to continue until ended in accordance with the Act.

Conclusion

The Tenants' application is successful. The 1 Month Notice issued by the Landlord dated May 26, 2017, is cancelled. The tenancy will continue until ended in accordance with the Act.

The Tenant's other claims are dismissed with leave to reapply.

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 12, 2017

Residential Tenancy Branch