



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, CNE

Introduction

This hearing dealt with an Application for Dispute Resolution filed by the Tenant under the *Residential Tenancy Act* (the “Act”), seeking to cancel a One Month Notice to End Tenancy for Cause and a One Month Notice to End Tenancy for End of Employment.

I note that Section 55 of the *Act* requires that when a tenant submits an Application seeking to cancel a notice to end tenancy issued by a landlord, I must consider if the landlord is entitled to an order of possession if the Application is dismissed and the landlord has issued a notice to end tenancy that is compliant with Section 52 of the *Act*.

The hearing was convened by telephone conference call and was attended by the Tenant, who provided affirmed testimony. The line remained open for 10 minutes; however, the Landlord did not attend. The Tenant was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

The Residential Tenancy Branch Rules of Procedure (the “Rules of Procedure”) state that the respondent must be served with a copy of the Application and Notice of Hearing. As the Landlord did not attend the hearing, I confirmed service of the documents as explained below.

The Tenant testified that the Application, the Notice of Hearing, and their evidence was personally served on the agent for the Landlord (the “Agent”), on or about September 18, 2017. As a result, I find that the Landlord was served on or about September 18, 2017, the date the documents were personally served on their Agent.

I have reviewed all evidence and testimony before me that met the requirements of the Rules of Procedure; however, I refer only to the relevant facts and issues in this decision.

Preliminary Matters

The Tenant testified that they only received one Notice to End Tenancy (the One Month Notice") dated August 28, 2017, which indicates that the Landlord is seeking to end the tenancy for cause, not because the Tenant's employment has ended. As a result, the Tenant withdrew their Application to cancel the One Month Notice to End Tenancy for End of Employment.

Issue(s) to be Decided

Is there a valid reason to cancel the One Month Notice under the *Act*?

If the Tenant is unsuccessful in seeking to cancel the One Month Notice, is the Landlord entitled to an Order of Possession pursuant to Section 55(1) of the *Act*?

Background and Evidence

The Tenant testified that their month-to-month tenancy began January 18, 2017, as part of their employment as a property manager. The Tenant stated that they do not agree with the reasons for ending the tenancy given by the Landlord on the One Month Notice and have not been provided with any details or evidence from the Landlord regarding these reasons.

The Tenant submitted a copy of the One Month Notice, dated August 25, 2017, which has an effective vacancy date of September 30, 2017, and gives that following reasons for ending the tenancy:

- The Tenant or a person permitted on the residential property by the Tenant has put the Landlord's property at significant risk;
- The Tenant or a person permitted on the residential property by the Tenant has engaged in illegal activity that has caused or is likely to cause damage to the Landlord's property, and has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the Landlord;
- The Tenant has not repaired damage to the rental unit or other residential property, as required under section 32 (3) [*obligations to repair and maintain*], within a reasonable time; and
- The Tenant has breached a material term of the tenancy agreement, and has not corrected the situation within a reasonable time after the Landlord has given written notice to do so.

The Tenant testified that they received the 10 Day Notice August 27, 2017, and that although the 10 Day Notice was no longer affixed to the door or other conspicuous place of their rental unit, it appeared to have been taped to the door and blown off by the wind.

Analysis

Ending of a tenancy is a serious matter and when a tenant disputes a Notice to End Tenancy, the landlord bears the burden to prove that they had sufficient cause under the *Act* to issue the notice. As the Landlord did not attend the hearing or provide any evidence for consideration, I find that they have failed to establish, on a balance of probabilities, that they had cause to end the tenancy under the *Act*. As a result, the One Month Notice is cancelled and the tenancy continues in full force and effect until the tenancy is ended in accordance with the *Act*.

Conclusion

I order that the One Month Notice dated on August 28, 2017, be cancelled.

I also order that the tenancy continue in full force and effect until it is 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: November 3, 2017

Residential Tenancy Branch