



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNQ, OLC

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- cancellation of the landlord's 2 Month Notice to End Tenancy (the "2 Month Notice") Because the Tenant Does not Qualify for Subsidized Rental Unit pursuant to section 49.1; and
- an order that the landlord comply with the Act, regulations or tenancy agreement.

The landlord did not attend this hearing which lasted approximately 15 minutes. The tenant appeared and was given a full opportunity to present affirmed testimony, to make submissions and to call witnesses.

The tenant testified that she was served with a copy of the landlord's 2 Month Notice by having it posted on her rental unit door on November 30, 2017. The tenant said that she filed her application for dispute resolution on the same date and served the landlord by placing a copy of the application in the landlord's mail slot.

Issue(s) to be Decided

Should the 2 Month Notice be cancelled? If not is the landlord entitled to an Order of Possession?
Should the landlord be ordered to comply with the Act, regulations or tenancy agreement?

Analysis

Section 89(1) of the *Act* establishes the following Special rules for certain documents, which include an application for dispute resolution:

89(1) An application for dispute resolution,...when required to be given to one party by another, must be given in one of the following ways:

- (a) by leaving a copy with the person;*
- (b) if the person is a landlord, by leaving a copy with an agent of the landlord;*
- (c) by sending a copy by registered mail to the address at which the person resides or, if the person is a landlord, to the address at which the person carries on business as a landlord;*

- (d) *if the person is a tenant, by sending a copy by registered mail to a forwarding address provided by the tenant;*
- (e) *as ordered by the director under section 71(1) [director's orders: delivery and service of document]...*

Leaving a copy in a mail slot is not an accepted manner of service for an application for dispute resolution. I find that I am not satisfied that the landlord was properly served with the application for dispute resolution. Consequently, I dismiss the tenant's application.

Section 55 of the *Act* provides that:

If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant to the landlord an order of possession of the rental unit if

- (a) the landlord's notice to end tenancy complies with section 52 [form and content of notice to end tenancy], and
- (b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

While I have dismissed the tenant's application, I find that the 2 Month Notice submitted into written evidence does not comply with the form and content requirements of section 52. The landlord has written some information in the box reserved for providing details in support of the reason for ending the tenancy but has failed to check off any of the reasons indicating why the notice to end tenancy was issued.

As I find that the 2 Month Notice does not comply with the form and content requirement of section 52 of the *Act* I do not issue an order of Possession.

Conclusion

The tenant's application is 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: January 9, 2018

Residential Tenancy Branch