



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, OLC

Introduction

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

- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause, dated October 25, 2017 ("1 Month Notice"), pursuant to section 47; and
- an order requiring the landlord to comply with the Act, *Residential Tenancy Regulation* or tenancy agreement, pursuant to section 62.

"Tenant AC" and the landlord did not attend this hearing, which lasted approximately 11 minutes. Tenant ET ("tenant") attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The tenant confirmed that he had authority to speak on behalf of tenant AC as an agent at this hearing.

The tenant testified that tenant AC personally served the landlord with the tenants' application for dispute resolution hearing package on November 10, 2017. In accordance with section 89 of the Act, I find that the landlord was personally served with the tenants' application on November 10, 2017.

The tenant testified that he received the landlord's 1 Month Notice on October 25, 2017, by way of posting to the rental unit door. The effective move-out date on the notice is November 25, 2017. In accordance with section 88 of the Act, I find that both tenants were duly served with the landlord's 1 Month Notice on October 25, 2017.

During the hearing, the tenant confirmed that the only other order he was seeking against the landlord was for this tenancy to be continued.

Issues to be Decided

Should the landlord's 1 Month Notice be cancelled? If not, is the landlord entitled to an order of possession?

Analysis

In accordance with section 47(4) of the *Act*, the tenants must file their application for dispute resolution within ten days of receiving the 1 Month Notice. In this case, the tenants received the 1 Month Notice on October 25, 2017 and filed their application to dispute it on November 3, 2017. Accordingly, I find that the tenants' application was filed within the ten day time limit under the *Act*.

Where tenants apply to dispute a 1 Month Notice, the onus is on the landlord to prove, on a balance of probabilities, the grounds on which the 1 Month Notice is based. The landlord did not appear at this hearing. The landlord did not meet her onus of proof.

Therefore, as advised to the tenant during the hearing, the landlord's 1 Month Notice, dated October 25, 2017, is cancelled and of no force or effect. The landlord is not entitled to an order of possession under section 55 of the *Act*. This tenancy will continue until it is ended in accordance with the *Act*.

Conclusion

I allow the tenants' application to cancel the landlord's 1 Month Notice. The landlord's 1 Month Notice, dated October 25, 2017, is cancelled and of no force or effect. The landlord is not entitled to an order of possession under section 55 of the *Act*. This tenancy continues 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: January 19, 2018

Residential Tenancy Branch