



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL, OLC, FF

Introduction

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

- cancellation of the landlords' 2 Month Notice to End Tenancy for Landlord's Use of Property ("2 Month Notice"), pursuant to section 49;
- an order requiring the landlords to comply with the *Act*, regulation or tenancy agreement pursuant to section 62; and
- authorization to recover the filing fee for this application from the landlords, pursuant to section 72.

While the tenant attended the hearing by way of conference call, the landlords did not. I waited until 11:11 a.m. to enable the landlords to participate in this scheduled hearing for 11:00 a.m. The tenant was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The tenant provided sworn, undisputed testimony that they had personally served the landlords with their application for dispute resolution hearing package ("Application") and evidence on October 21, 2017. The tenant provided a witness statement in their evidence as proof of service. In accordance with sections 88 and 89 of the *Act*, I find that the landlords were duly served with the tenant's application and evidence. The landlord did not submit any written evidence for this hearing.

The tenant acknowledged receipt of the 2 Month Notice dated September 11, 2017. In accordance with section 88 of the *Act*, I find that the tenant was duly served with the 1 Month Notice.

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

Issues to be Decided

Should the landlords' 2 Month Notice be cancelled? If not, are the landlords entitled to an Order of Possession?

Is the tenant entitled to an order requiring the landlords to comply with the *Act*, regulation or tenancy agreement?

Is the tenant entitled to recover the filing fee for this application from the landlords?

Background and Evidence

This month-to-month tenancy began approximately 5 years ago. Monthly rent is set at \$1,000.00, payable on the first day of each month. The tenant continues to reside in the rental home.

The landlords issued the 2 Month Notice on September 11, 2017 advising the tenant that the property will be for sale. The tenant submitted a copy of the 2 Month Notice in their evidence, and the landlords did not indicate a reason on the 2 Month Notice in the designated section.

Analysis

A notice under this section 49 must comply with section 52 [*form and content of notice to end tenancy*].)

Section 52 of the *Act* provides the following requirements requiring the form and content of notices to end tenancy:

52 *In order to be effective, a notice to end a tenancy must be in writing and must*

(a) be signed and dated by the landlord or tenant giving the notice,

(b) give the address of the rental unit,

(c) state the effective date of the notice,

(d) except for a notice under section 45 (1) or (2) [tenant's notice], state the grounds for ending the tenancy, and

(e) when given by a landlord, be in the approved form...

The 2 Month Notice to End Tenancy provided to tenant by the landlords on September 11, 2017 does not comply with Section 52(d) as it does not state the grounds for ending the tenancy. The 2 Month Notice is therefore invalid, and accordingly, I allow the tenant's application to cancel the 2 Month Notice dated September 11, 2017. The landlords' 2 Month Notice is hereby cancelled, and of no force and effect. This tenancy continues until it is ended in accordance with the *Act*.

I find the tenant is entitled to recover the filing fee for this application.

Conclusion

The tenant's application to cancel the landlords' 2 Month Notice is allowed. The landlords' 2 Month Notice, dated September 11, 2017 is cancelled and of no force or effect. This tenancy continues until it is ended in accordance with the *Act*.

I allow the tenant to implement a monetary award of \$100.00, by reducing a future monthly rent payment by that amount. In the event that this is not a feasible way to implement this award, the tenant is provided with a Monetary Order in the amount of \$100.00, and the landlords must be served with **this Order** as soon as possible. Should the landlords fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

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 5, 2018

Residential Tenancy Branch