



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, CNR, ERP

Introduction

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

- cancellation of the Respondent's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46;
- cancellation of the Respondent's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 47; and
- an order to the Respondent to make emergency repairs to the rental unit pursuant to section 33.

The Respondent did not attend this hearing, although I left the teleconference hearing connection open until 11:15 a.m. in order to enable them to call into this teleconference hearing scheduled for 11:00 a.m. The Applicants attended the hearing and were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

Applicant CL gave sworn testimony that they attempted to hand the Respondent a copy of the dispute resolution hearing package on January 11, 2018. Applicant CL said that the Respondent refused to keep this package and handed it back to Applicant CL. Applicant JK testified that he saw Applicant CL try to deliver this package to his brother, the Respondent.

Both Applicants testified that the Respondent did not keep or even open their dispute resolution hearing package. I find that their undisputed sworn testimony was sufficient to meet the requirements for service of this package in accordance with paragraph 71(2)(c) of the *Act*, which reads in part as follows:

71 (2) In addition to the authority under subsection (1), the director may make any of the following orders:...

(c) that a document not served in accordance with section 88 or 89 is sufficiently given or served for purposes of this Act.

Issues(s) to be Decided

Should the 10 Day Notice be cancelled? Should the 1 Month Notice be cancelled? If not, is the landlord entitled to an Order of Possession? Should any orders be issued for emergency repairs to this rental unit?

Background and Evidence

Very little written evidence was produced for this hearing. Neither party supplied a copy of the 10 Day Notice or the 1 Month Notice, which the Applicants confirmed receiving from the Respondent.

Applicant JK testified that he actually holds a one-half interest in this property with his brother, the Respondent, since their mother passed away last year.

The Applicants testified that they live in separate rental units in this dwelling, and that there is a third separate tenanted rental unit in the basement, as well.

The Applicants also testified that they had undertaken the requested emergency repairs in this rental home and that they were not pursuing that aspect of their application.

Analysis

In the absence of the Respondent's attendance at this hearing, I find that the two Notices to End Tenancy issued on December 26, 2017 are set aside.

The application for emergency repairs is withdrawn as these repairs have been completed.

Conclusion

I allow this application to cancel the two Notices to End Tenancy issued on December 26, 2017. These Notices are set aside and are no longer of any force or effect. These tenancies continue until ended in accordance with the *Act*.

In making this determination, I make no findings with respect to whether Applicant JK is a tenant in this property as defined in the *Act* or whether he has an ownership interest in this property.

The application for emergency repairs is withdrawn.

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: March 01, 2018

Residential Tenancy Branch