



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 1088966 BC LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with an application by the tenant pursuant to the *Residential Tenancy Act* (“the Act”) for an order as follows:

- to cancel a 1 Month Notice to End Tenancy given for Cause (“1 Month Notice”) pursuant to section 47 *Act*.

Both the tenant and the landlord’s agents, S.G. appeared at the hearing. All parties present were given a full opportunity to be heard, to present their sworn testimony and to make submissions.

The tenant confirmed receipt of the landlord’s 1 Month Notice and explained that he sent a copy of his application for dispute to the landlord by way of Canada Post Regular Mail, “about a month ago.” The landlord confirmed receipt of the tenant’s application for dispute resolution.

Neither party submitted any physical evidence to the hearing.

Issue(s) to be Decided

Can the tenant cancel the landlord’s 1 Month Notice? If not, is the landlord entitled to an Order of Possession?

Background and Evidence

The tenant explained that he received a copy of the landlord’s notice but could not identify the exact date on which it was received nor could the tenant recall the reason cited on the 1 Month Notice.

The landlord alleged that a 1 Month Notice to End Tenancy was issued to the tenant because of on-going issues with the tenant’s trailer which is parked in the main parking

lot of the apartment building. The landlord said that he did not have the Notice to End Tenancy before him and could therefore not identify the reason cited on the 1 Month Notice. The landlord explained that the presence of the trailer and its accompanying electrical wires created a hazard for the other residents, prevented a snow plow from clearing the parking lot, and was the source of many complaints from other residents.

The tenant disputed that the trailer was a hazard or that it in any way interfered with the other residents. The tenant said that he took great care to ensure that the area was clear of snow, argued that the trailer had been parked for one year, and previous to the issuance of the landlord's 1 Month Notice, that he had received no complaints or warnings about the trailer's presence or any associated problems.

Analysis

Section 47 of the *Act* provides various reasons why a landlord may issue a 1 Month Notice to End Tenancy. At the hearing, the landlord could not identify the reasons cited on the 1 Month Notice issued to the tenant, nor could he identify when it was served on the tenant.

Section 47(3) of the *Act* states, "A notice under this section must comply with section 52 *[form and content of notice to end tenancy]*." I find that the tenant has succeeded in cancelling the landlord's notice to end tenancy, because very little information was provided to the hearing by the landlord regarding the 1 Month Notice served on the tenant. No copy of the 1 Month Notice was provided to the hearing, and no physical evidence whatsoever was submitted. Furthermore, the landlord could not identify the reasons for which the 1 Month Notice was served on the tenant. When a tenant applies to cancel a landlord's notice to end tenancy, the burden of proof is placed on the landlord to explain why their notice should be found to be valid. For these reasons, I dismiss the 1 Month Notice and find the tenant was successful in his application to cancel the landlord's 1 Month Notice.

This tenancy shall continue until it is ended in accordance with the *Act*.

Conclusion

The tenant was successful in his application to cancel the landlord's 1 Month Notice. This tenancy shall continue 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: April 3, 2018

Residential Tenancy Branch