



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BROWN BROS
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: CNC

Introduction

This hearing was convened as a result of the tenant's Application for Dispute Resolution ("application") under the *Residential Tenancy Act* ("Act"). The tenant applied to cancel a 1 Month Notice to End Tenancy for Cause dated January 26, 2018 ("1 Month Notice").

The tenant, a tenant witness who did not testify, and two agents for the landlord ("agents") attended the teleconference hearing. The hearing process was explained to the parties and an opportunity was given to ask questions about the hearing process. Thereafter the parties gave affirmed testimony, were provided the opportunity to present their evidence orally and in documentary form prior to the hearing, and make submissions to me.

The agents confirmed that they were served with the tenant's application and her documentary evidence and had the opportunity to review that evidence prior to the hearing. The agents also confirmed that they did not submit any documentary evidence in response to the tenant's application. I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this decision.

Preliminary and Procedural Matters

The agents provided their email address at the outset of the hearing which was confirmed by the undersigned arbitrator. The parties confirmed their understanding that the decision would be emailed to the agents and that any applicable orders would be emailed to the agents and that the tenant would receive her copies by regular mail as she did not have an email address.

Issue to be Decided

- Should the 1 Month Notice be cancelled?

Background and Evidence

The parties agreed that the tenancy began approximately at the end of 2016 and that monthly rent was \$1,011.00. The tenant confirmed that she received the 1 Month Notice dated January 26, 2018 on January 28, 2018 which was posted to her door.

The tenant disputed the 1 Month Notice on February 9, 2018.

Analysis

Based on the documentary evidence, oral testimony and on the balance of probabilities, I find the following.

I have reviewed the 1 Month Notice and find that it complies with section 52 of the *Act*. I also find that as the tenant confirmed that she received the 1 Month Notice on January 28, 2018 that he had until February 7, 2018 to dispute the 1 Month Notice. The tenant eventually applied on February 9, 2018 which is beyond the 10 day timeline provided for under the *Act*. Section 47(4) and 47(5) of the *Act* states the following:

47 (4) A tenant may dispute a notice under this section by making an application for dispute resolution **within 10 days after the date the tenant receives the notice.**

(5) **If a tenant who has received a notice under this section does not make an application for dispute resolution in accordance with subsection (4), the tenant**

(a) is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and

(b) must vacate the rental unit by that date.

[My emphasis added]

Based on the above, I find that the tenant failed to dispute the 1 Month Notice by February 7, 2018 which was the deadline for disputing the 1 Month Notice. Therefore, pursuant to section 47(5) of the *Act* I find the tenant is conclusively presumed to have accepted that the tenancy ended on the effective vacancy date which is listed as

February 28, 2018. Therefore, I find the tenancy ended on February 28, 2018 and I dismiss the tenant's application as a result, without leave to reapply. I do not find it necessary to consider the 1 Month Notice further or to hear from the tenant's witness as a result. I note that the tenant did not apply for more time to make an application to dispute a Notice to End Tenancy under the *Act*.

During the hearing, the tenant requested for the landlord to reinstate the tenancy which the agents declined. The agents did; however, agree to an order of possession effective April 30, 2018 at 1:00 p.m. Pursuant to section 55 of the *Act*, I grant the landlord an order of possession effective **April 30, 2018 at 1:00 p.m.**

Conclusion

The tenant's application is dismissed without leave to reapply. The tenancy ended on February 28, 2018.

The landlord has been granted an order of possession effective April 30, 2018 at 1:00 p.m. which was the date the agents consented to during the hearing. This order must be served on the tenant and may be enforced in the Supreme Court of British Columbia.

This decision is final and binding on the parties, unless otherwise provided under the *Act*, and 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 6, 2018

Residential Tenancy Branch