



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with an Application for Dispute Resolution (the “Application”) filed by the Tenant under the *Residential Tenancy Act* (the “Act”), seeking cancellation of a One Month Notice to End Tenancy for Cause (the “One Month Notice”)

I note that section 55 of the *Act* requires that when a tenant submits an Application seeking to cancel a Notice to End Tenancy issued by a landlord, I must consider if the landlord is entitled to an Order of Possession if the Application is dismissed and the landlord has issued a Notice to End Tenancy that is compliant with section 52 of the *Act*.

The hearing was convened by telephone conference call and was attended by the Landlord, who provided affirmed testimony. The Tenant did not attend. The Landlord provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

I have reviewed all evidence and testimony before me that was accepted for consideration in accordance with the Residential Tenancy Branch Rules of Procedure (the “Rules of Procedure”). However, I refer only to the relevant facts and issues in this decision. At the request of the Landlord, a copy of the Decision and any Orders issued in his favor will be e-mailed to him at the e-mail address provided in the hearing.

Issue(s) to be Decided

Is the Tenant entitled to an order cancelling the One Month Notice?

If the Tenant is unsuccessful in cancelling the One Month Notice, is the Landlord entitled to an Order of Possession pursuant to section 55 of the *Act*?

Background and Evidence

The Landlord testified that a One Month Notice was served on the Tenant by posting a copy to the door of her rental unit on February 3, 2018, and that the Tenant continues to reside in the rental unit. The One Month Notice in the documentary evidence before me is missing the date and the Landlord's signature and has an effective vacancy date of March 2, 2018. The One Month Notice states that the reason for ending the tenancy is because the Tenant or a person permitted on the property by the Tenant has significantly interfered with or unreasonably disturbed another occupant or the Landlord.

Although the Tenant applied to cancel the One Month Notice, she did not appear at the hearing of her own Application to provide any evidence or testimony.

Analysis

Having reviewed the documentary evidence and testimony before me, and pursuant to section 90 of the *Act*, I find that the Tenant was deemed served with the One Month Notice on February 6, 2018, three days after it was posted to the door of her rental unit.

As the Tenant failed to attend the hearing to present any evidence or testimony in support of her Application, her Application seeking cancellation of the One Month Notice is dismissed without leave to reapply.

As the Tenant's Application seeking to cancel the One Month Notice is dismissed, section 55 of the *Act* requires me to issue the Landlord an Order of Possession if the One Month Notice is compliant with section 52 of the *Act*.

Section 52 of the *Act* states the following with regards to the form and content requirements of a Notice to End Tenancy:

Form and content of notice 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,
- (d.1) for a notice under section 45.1 [*tenant's notice: family violence or long-term care*], be accompanied by a statement made in accordance with section 45.2 [*confirmation of eligibility*], and
- (e) when given by a landlord, be in the approved form.

As the One month Notice is not signed or dated by the Landlord, I find that it does not comply with section 52 of the *Act*. Although section 68 of the *Act* allows me to amend the One Month Notice if I am satisfied that the person receiving the notice knew, or should have known, the information that was omitted from the notice, and in the circumstances, it is reasonable to do so, I do not find it reasonable or possible to amend a missing signature. Further to this, I do not find it reasonable for the Tenant to have known the missing date of the One Month Notice. As a result, I find that I cannot amend the One Month Notice to comply with section 52 of the *Act*. Based on the foregoing, and despite the fact that the Tenant's Application was dismissed without leave to reapply, I cannot issue the Landlord an Order of Possession pursuant to section 55 of the *Act* as the One Month Notice does not comply with section 52 of the *Act*.

Conclusion

The Tenant's Application is dismissed in its entirety without leave to reapply.

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 6, 2018

Residential Tenancy Branch