



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding KETCH HOLDINGS LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with the tenant's Application for Dispute Resolution ("application") under the *Residential Tenancy Act* ("Act") to cancel a 1 Month Notice to End Tenancy for Cause dated February 28, 2018 ("1 Month Notice").

The tenant, a tenant support person, an agent for the landlord ("agent"), and a building manager for the landlord ("building manager") attended the teleconference hearing. The parties gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and make submissions to me.

The landlord confirmed that they had the opportunity to review the documentary evidence from the tenant prior to the hearing and that the landlord did not submit documentary evidence in support of the 1 Month Notice.

Preliminary and Procedural Matter

The parties confirmed their email addresses at the outset of the hearing. The parties confirmed their understanding that the decision would be emailed to both parties and that any applicable orders would be emailed to the appropriate party.

Issue to be Decided

- Should the 1 Month Notice be cancelled?

Background and Evidence

The parties agreed that a month to month tenancy began on July 1, 2015.

A copy of the tenancy agreement was submitted in evidence. There is no dispute that the landlord purchased the rental property in January 2018. The monthly rent is currently \$750.00 per month and due on the first day of each month.

The parties agree that the 1 Month Notice was dated February 28, 2018 and that the tenant received the 1 Month Notice on the same date. The tenant disputed the 1 Month Notice on March 6, 2018 which is within the ten day timeline provided for under section 47 of the *Act*.

In the 1 Month Notice, the landlord has alleged two causes; the first being that the tenant or a person permitted on the property by the tenant has significantly interfered or unreasonably disturbed another occupant or the landlord, and the second being that the tenant or a person permitted on the property by the tenant has put the landlord's property at significant risk.

The agent confirmed that no documentary evidence was submitted in evidence as the landlord felt that the details on the 1 Month Notice would suffice. The 1 Month Notice refers to text messages that the agent confirmed were not submitted in evidence, nor were witnesses called to testify. The tenant disagrees with the details listed on the 1 Month Notice which is clearly indicated in the application.

Analysis

Based on the above the testimony of the parties, and on a balance of probabilities, I find as follows.

The 1 Month Notice has an effective vacancy date of March 31, 2018. The tenant disputed the 1 Month Notice on March 6, 2018 which is within the ten day timeline provided for under section 47 of the *Act* to dispute a 1 Month Notice.

Once a 1 Month Notice is disputed, the onus of proof is on the landlord to prove that the 1 Month Notice is valid. The landlord did not submit any documentary evidence in support of the 1 Month Notice and did not have any witnesses present at the teleconference hearing. Allegations without supporting evidence to support those allegations constitutes insufficient evidence to provide a 1 Month Notice is valid, especially when a tenant disputes the cause listed on the 1 Month Notice. At the very least, I would have expected the landlord to have submitted documentary evidence that supports at least one of the two causes listed, on the balance of probabilities.

Where one party provides a version of events in one way, and the other party provides an equally probable version of events, without further evidence, the party with the burden of proof has not met the onus to prove their claim and the claim fails. In the matter before me, the landlord has the onus of proof to prove that the 1 Month Notice is valid. Based on the above, I find the landlord has provided insufficient evidence to prove that the 1 Month Notice is valid as the landlord failed to provide copies of text messages or anything from other occupants such as witness statements or witness testimony. Therefore, **I cancel** the 1 Month Notice dated February 28, 2018 as the landlord has not met the burden of proof to prove that the 1 Month Notice is valid.

I ORDER the tenancy to continue until ended in accordance with the *Act*.

Conclusion

The tenant's application is successful. The 1 Month Notice issued by the landlord dated February 28, 2018 is cancelled.

The tenancy is ordered to continue until ended in accordance with the *Act*.

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: May 18, 2018

Residential Tenancy Branch