



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 1088966 B.C. LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution filed by the Tenants on April 23, 2018 (the “Application”). The Tenants applied to dispute a One Month Notice to End Tenancy for Cause dated April 18, 2018 (the “Notice”).

Tenant J.B. attended the hearing for both Tenants. Nobody attended the hearing for the Landlord. The hearing process was explained to Tenant J.B. who did not have questions when asked. Tenant J.B. provided affirmed testimony.

The Tenants had submitted the Notice as evidence prior to the hearing. The Landlord had also submitted evidence. I addressed service of the hearing package and Tenants’ evidence.

Tenant J.B. testified that he served the hearing package on the Landlord by registered mail at least a month prior to the hearing. Tenant J.B. provided Canada Post Tracking Number 1, as indicated on the front page of this decision, but could not confirm that it related to the hearing package. I looked the tracking number up on the Canada Post website and it appeared to be related to a package sent from a different city than the city Tenant J.B. sent the hearing package from. Tenant J.B. provided the address he sent the hearing package to and it is indicated on the front page of this decision. He said this is the Landlord’s business address. Tenant J.B. testified that this is the address on a piece of mail he received from the Landlord containing their evidence for this hearing. Tenant J.B. testified that he used this address for the Landlord the last time the parties went to arbitration a couple of months ago. He said he sent the previous hearing package to the Landlord at this address and the Landlord appeared at the last hearing. Tenant J.B. could not recall if he served his evidence on the Landlord.

I accept the undisputed testimony of Tenant J.B. that he sent the hearing package to the business address of the Landlord by registered mail at least a month prior to the hearing. Therefore, I find the hearing package was served on the Landlord in accordance with section 89(1)(c) of the *Residential Tenancy Act* (the “*Act*”). Further, I find the hearing package was served in sufficient time to allow the Landlord to prepare for, and appear, at the hearing. These findings are supported by the fact that the Landlord submitted evidence for this hearing 15 days prior to the hearing. The Landlord would not have known to submit evidence, or how to submit evidence, unless they received the hearing package.

I acknowledge that Tenant J.B. could not recall if he served his evidence on the Landlord. Whether Tenant J.B. served a copy of the Notice on the Landlord or not is irrelevant as this is evidence that came from the Landlord and that the Landlord would have regardless of service.

As I was satisfied of service, I proceeded with the hearing in the absence of the Landlord.

Issue to be Decided

1. Should the Notice be cancelled?

Background and Evidence

The teleconference started at 9:30 a.m. and ended at 10:00 a.m. Nobody appeared for the Landlord during this time.

Analysis

When a tenant disputes a notice to end tenancy, the landlord has the onus to prove the grounds for the notice and that the notice complies with section 52 of the *Act*.

Here, the Landlord did not appear at the hearing to provide evidence to prove the grounds for the Notice or that it complies with section 52 of the *Act*. In the absence of evidence from the Landlord, the Notice has not been proven. Therefore, the Notice is cancelled.

The Tenants’ Application is granted. The tenancy will continue until ended in accordance with the *Act*.

Conclusion

The Tenants' Application is granted. The Notice is cancelled. The tenancy will continue until 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 *Act*.

Dated: June 08, 2018

Residential Tenancy Branch