



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Properties of Promise
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with the tenant's application pursuant to the Residential Tenancy Act (the *Act*) for:

- Cancellation of One Month Notice to End Tenancy for Cause ("One Month Notice") under Section 47 of the *Act*;

The tenant appeared at the hearing with his advocate ("the tenant"). The landlord did not appear at the hearing. I kept the teleconference line open from the time the hearing was scheduled for ten minutes to allow the landlord the opportunity to call. The teleconference system indicated only the tenant and I had called into the hearing. I confirmed the correct participant code for the landlord had been provided.

The tenant testified the landlord was served with the Notice of Hearing and Application for Dispute Resolution by personal service effected by an advocate of the tenant on May 17, 2018 on an employee of the landlord at the landlord's place of business.

Based on the undisputed testimony of the tenant, I find the landlord has been sufficiently served with the documents pursuant to Section 89 of the *Act*.

I note that Section 55 of the *Act* requires when a tenant submits an Application for Dispute Resolution 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 in compliance with the *Act*.

Issues to be Decided

- Is the tenant entitled to cancel the One Month Notice pursuant to Section 47 of the *Act*?
- If the tenant is unsuccessful in seeking to cancel the One Month Notice, is the landlord entitled to an order of possession pursuant to Section 55(1) of the *Act*?

Background and Evidence

The tenant submitted into evidence a copy of the One Month Notice issued by the landlord on May 3, 2018 with an effective vacancy date of June 1, 2018 (corrected to June 30, 2018) citing the tenant had breached a material term of the tenancy agreement and had not corrected the breach within a reasonable time after written notice to do so. The tenant submitted a request to cancel the One Month Notice on May 10, 2018 pursuant to Section 47(4).

Analysis

Section 47 of the *Act* allows a landlord to end a tenancy by giving notice to end the tenancy if the tenant has failed to comply with a material term, and has not corrected the situation within a reasonable time after the landlord gives written notice to do so.

The onus is on the landlord to establish the cause upon which the One Month Notice is based.

Rule 6.6 of the Rules of Procedure states in part as follows:

6.6 The standard of proof and onus of proof

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim.

As the landlord has failed to attend this hearing and provide evidence to establish the tenant has given the landlord any cause to end the tenancy consistent with the One Month Notice issued on May 3, 2018, I order the Notice is cancelled.

I therefore grant the tenant's application for the dismissal of the One Month Notice.

Conclusion

Based on the above, the tenant's application is granted and I order that the One Month Notice dated May 3, 2018 is cancelled and of no force and effect. The tenancy will remain in full force and effect 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 *Residential Tenancy Act*.

Dated: July 03, 2018

Residential Tenancy Branch