



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC OLC LRE

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution. A hearing by telephone conference was held on July 6, 2018. The Tenant applied for multiple remedies, pursuant to the *Residential Tenancy Act* (the "*Act*").

Both parties were represented at the hearing. All parties were provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me.

The Landlord confirmed receipt of the Tenant's documentary evidence and Notice of Hearing package. The Landlord did not provide any documentary evidence.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence submitted in accordance with the rules of procedure and evidence that is relevant to the issues and findings in this matter are described in this Decision.

Preliminary and Procedural Matters

The Tenant applied for multiple remedies under the *Act*, some of which were not sufficiently related to one another.

Section 2.3 of the Rules of Procedure states that claims made in an Application must be related to each other and that arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.

After looking at the list of issues before me at the start of the hearing, I determined that the most pressing and related issues deal with whether or not the tenancy is ending. As a result, I exercised my discretion to dismiss all of the Tenant's application, with leave to reapply, with the exception of the following claim:

- to cancel the 1-Month Notice to End Tenancy for Cause (the Notice).

Issue(s) to be Decided

- Is the Tenant entitled to have the Notice cancelled?
 - If not, is the Landlord entitled to an Order of Possession?

Background, Evidence and Analysis

The Landlord served the Tenant, in person, on May 22, 2018, with the Notice.

The Notice indicates the following reasons for ending the tenancy on the second page:

- Tenant has allowed an unreasonable number of occupants in the unit/site.
- Tenant or a person permitted on the property by the Tenant has:
 - Significantly interfered with or unreasonably disturbed another occupant or the Landlord
- Tenant or a person permitted on the property by the tenant has engaged in illegal activity that has, or is likely to:
 - adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant.

Section 52 of the Act provides for the form and content of notices to end tenancy. Among other things, in order for a notice to end tenancy to be effective it must be in the approved form when given by a Landlord.

The Director has the authority to approve forms pursuant to section 10 of the Act, which provides:

Director may approve forms

- 10** (1) The director may approve forms for the purposes of this Act.
- (2) Deviations from an approved form that do not affect its substance and are not intended to mislead do not invalidate the form used.

The current Notice that is in the approved form provides a section entitled “Details of Cause”. In this section, the form states:

Include any dates, times, people or other information that says who, what, where or when caused the issue. The RTB may cancel the notice if details are not described. Attach separate sheet(s) if necessary (signed and numbered).

In this case, I note that the Landlord selected multiple grounds on the Notice, yet failed to indicate or explain what the basis was under the “details of cause” section of the Notice. The Landlord left the “details of cause” section blank.

I note this section is included on the Notice to allow Tenants to properly understand the basis for the Notice. I find that by issuing a Notice under multiple grounds, with no particulars or explanation under the “details of cause” section, may be prejudicial to the Tenant and their ability to understand the basis for it, and effectively respond to all of these points upon application.

In the Hearing, it appeared there was some uncertainty on the Tenant’s part with respect to why the Notice was issued, and the Landlord appeared to have several issues with the Tenant which were not clearly laid out on the Notice. I also note there was more than one ground selected on the Notice. Ultimately, by issuing a Notice without any details of cause I do not find the Landlord has sufficiently clarified to the Tenant, at the time the Notice was issued, the basis for it. The lack of clarity and the missing “details of cause” section is exacerbated by the fact that the Landlord issued the Notice under more than one ground, which I find makes it even less clear why exactly the Notice was issued.

In keeping with the principles of natural justice, a person receiving an eviction notice is entitled to know the reason(s) for its issuance so that they may adequately respond or prepare a defence. In this case I find that the Landlord’s failure to use an up to date Notice and complete the Details of Cause section of the approved form is prejudicial to the Tenant.

In light of the above, I grant the Tenant’s request that I cancel the Notice as I do not find the Notice complies with section 52 of the Act. Accordingly, the tenancy continues at this time and until such time it legally ends.

It is important to note that I have made no finding as to whether the Landlord has a basis under the Act for ending the tenancy. The Landlord remains at liberty to re-issue a Notice to End Tenancy should the Landlord decide to pursue eviction.

Conclusion

The Notice issued on May 22, 2018, has been cancelled and the tenancy continues at this time.

I have made no finding as to whether there were sufficient grounds for eviction and the Landlord is at liberty to re-issue a notice to end tenancy if the Landlord so chooses.

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 06, 2018

Residential Tenancy Branch