



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 the tenant's application pursuant to the *Residential Tenancy Act* (the *Act*) for cancellation of the Two Month Notice to End Tenancy for Landlord's Use of Property (the "Two Month Notice"), pursuant to section 49.

The landlord did not attend this hearing, although I left the teleconference hearing connection open for 11 minutes in order to enable the landlord to call into this teleconference hearing scheduled for 9:30 a.m. The tenant attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the tenant and I were the only ones who had called into this teleconference.

The tenant testified that he personally served the landlord the notice of dispute resolution package in the second week of June 2018. I find that the landlord was served with this package in accordance with section 89 of the *Act*.

I note that Section 55 of the *Act* requires that 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 that is compliant with the *Act*.

Issue(s) to be Decided

1. Is the tenant entitled to cancellation of the Two Month Notice, pursuant to section 49 of the *Act*?
2. If the tenant's application is dismissed or if the landlord's Two Month Notice is upheld, is the landlord entitled to an Order of Possession, pursuant to section 55 of the *Act*?

Background and Evidence

While I have turned my mind to the documentary evidence and the testimony of the tenant, not all details of his submissions and arguments are reproduced here. The relevant and important aspects of the tenant's claims and my findings are set out below.

The tenant provided undisputed testimony that this tenancy began six or seven years ago and is currently ongoing. Monthly rent in the amount of \$1,747.00 is payable on the first day of each month. A security deposit of \$825.00 was paid by the tenant to the landlord.

The tenant testified that on May 29, 2018 he received the Two Month Notice which was posted on his front door. The Two Month Notice was dated May 25, 2018 and had an effective date of July 31, 2018. The Two Month Notice stated the following reason for the issuance of the notice: the landlord has all necessary permits and approvals required by law to demolish the rental unit, or renovate or repair the rental unit in a manner that requires the rental unit to be vacant.

The tenant testified that the landlord did not use the correct notice to end tenancy form and that he should have been issued a Four Month Notice to End Tenancy for Demolition, Renovation, Repair or Conversion of Rental Unit.

Analysis

Based on the undisputed testimony of the tenant, I find that service of the Two Month Notice was effected on the tenant on May 29, 2018, in accordance with section 88 of the *Act*.

Bill 12- 2018, Tenancy Statutes Amendment Act, 2018, which introduced changes to the Residential Tenancy Act, was given Royal Assent on May 17, 2018. Bill 12 changed the notice period landlords are required to give to tenants for demolition, renovation, repair or conversion of a rental unit from two months to four months.

As of May 17, 2018, section 49 of the *Act* states in part that a landlord may end a tenancy in respect of a rental unit if the landlord has all the necessary permits and approvals required by law, and intends in good faith, to do any of the following:

- (a)demolish the rental unit;
- (b)renovate or repair the rental unit in a manner that requires the rental unit to be vacant;
- (c)convert the residential property to strata lots under the *Strata Property Act*;
- (d)convert the residential property into a not for profit housing cooperative under the *Cooperative Association Act*;

- (e) convert the rental unit for use by a caretaker, manager or superintendent of the residential property;
- (f) convert the rental unit to a non-residential use.

The landlord may end the tenancy for the above reasons by giving notice to end the tenancy effective on a date that must be:

- (i) not earlier than 4 months after the date the tenant receives the notice,
- (ii) the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement, and
- (iii) if the tenancy agreement is a fixed term tenancy agreement, not earlier than the date specified as the end of the tenancy.

Since the landlord's notice to end tenancy was drafted after May 17, 2018, the landlord was required to give the tenant four months' notice, not the two months provided.

Section 52 of the *Act* states that in order to be effective, a notice to end a tenancy must be in writing and must, when given by a landlord, be in the approved form. I find that the Two Month Notice was not in the approved form as a Four Month Notice to End Tenancy for Demolition, Renovation, Repair or Conversion of Rental Unit should have been used. As such, the Two Month Notice is cancelled and is of no force or effect.

Conclusion

I Order that the Two Month Notice is cancelled and of no force or effect.

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 26, 2018

Residential Tenancy Branch