



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ROYAL LEPAGE - PORT ALBERNI PROPERTY MANAGEMENT
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC, FFT

Introduction

This hearing was convened as a result of the tenant's Application for Dispute Resolution ("application") seeking remedy under the *Residential Tenancy Act* ("Act"). The tenant applied to cancel a 1 Month Notice to End Tenancy for Cause dated August 28, 2018 ("1 Month Notice") and to recover the cost of the filing fee.

The tenant, landlord agent MK ("agent") and a support person for the agent attended the teleconference hearing. An opportunity to ask questions about the hearing process was provided to the parties. Neither party raised any concerns regarding the service of documentary evidence. The parties provided affirmed testimony and were also given the opportunity to ask questions at the end of the hearing.

I have reviewed all evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this decision.

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.

Issues to be Decided

- Should the 1 Month Notice be cancelled?
- Is the tenant entitled to the recovery of the cost of the filing fee under the *Act*?

Background and Evidence

The parties agreed that a written tenancy agreement exists between the parties however it was not submitted in evidence. The parties agreed that a month to month tenancy began on July 12, 2010. The parties also agreed that currently monthly rent of \$780.00 is due on the first day of each month.

The tenant confirmed that he was served with the 1 Month Notice dated August 28, 2018 on August 28, 2018. The tenant applied to dispute the 1 Month Notice on September 6, 2018. The 1 Month Notice indicates one cause which is repeated late payment of rent although the “Details of Cause” section of the 1 Month Notice reads as follows:

“The tenant and young children in side A of the duplex have notified us of the restraining order now in place (attached), Also, the charges that have been files against tenant named herin.”

[Reproduced as written]

The “Details of Cause” section does not indicate which months the tenant is alleged to have paid rent late.

Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on the balance of probabilities, I find the following.

Section 52 of the *Act* applies and states:

Form and content of notice to end tenancy

52 In order to be effective, a notice to end a tenancy must be in writing and must

- (a) be signed and dated by the landlord or tenant giving the notice,
- (b) give the address of the rental unit,
- (c) state the effective date of the notice,

(d) except for a notice under section 45 (1) or (2) [*tenant's notice*], **state the grounds for ending the tenancy,** and

(e) **when given by a landlord, be in the approved form.**

[My emphasis added]

In addition, on the 1 Month Notice it reads in the Details of Cause section:

“The RTB may cancel the notice if details are not described.”

[My emphasis added]

Based on the above, I find that by failing to indicate the dates on which the one cause was listed on the 1 Month Notice that the 1 Month Notice does not comply with section 52 of the *Act* and is missing critical details that would allow the tenant enough information to submit rebuttal evidence. Without having details of the dates on the Details of Cause I find the 1 Month Notice must be cancelled as the 1 Month Notice does not comply with section 52 of the *Act*. Therefore, I cancel the 1 Month Notice dated August 28, 2018 as I find it is not a valid 1 Month Notice. I also notice that the landlord neglected to fill out the portion of the 1 Month Notice that indicates how the 1 Month Notice was served.

Given the above, **I ORDER** that the tenancy continue until ended in accordance with the *Act*.

As the tenant was successful with her application, **I authorize** the tenant to deduct \$100.00 from a future month's rent on a one-time basis pursuant to section 72 of the *Act* in full satisfaction of the recovery of the \$100.00 filing fee.

I caution the landlord to ensure that all notices to end tenancy are filled out correctly before they are served on a tenant.

Conclusion

The tenant's application is successful. The 1 Month Notice dated August 28, 2018 is cancelled and is of no force or effect.

The tenancy shall continue until ended in accordance with the *Act*.

The tenant has been authorized to deduct \$100.00 from a future month's rent on a one-time basis in full satisfaction of the recovery of the \$100.00 filing fee.

The landlord has been cautioned regarding serving a tenant with an incomplete notice to end tenancy.

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: October 22, 2018

Residential Tenancy Branch