



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding NEIGHBOURHOOD HOUSING SOCIETY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution. The participatory hearing was held on October 22, 2018. The Tenant applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- cancellation of the Landlord's 1 Month Notice to End Tenancy for Cause pursuant to section 47 (the Notice)

Both parties attended the hearing and provided testimony. All parties were given a full opportunity to be heard, to present evidence and to make submissions. The Landlord confirmed receipt of the Tenant's application package. The Tenant stated that they received the Landlord's evidence package by registered mail on October 17, 2018, and that they did not have time to properly respond to it.

Residential Tenancy Branch Rule of Procedure 3.14 requires that evidence to be relied upon at a hearing must be received by the Residential Tenancy Branch and the applicant not less than 7 days before the hearing. Since the Landlord's main evidence package is late and was not properly disclosed to the Tenant in a timely manner, I will not consider the Landlord's late documentary evidence in this hearing.

I have reviewed all oral and written 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.

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 drafted and delivered the Notice on August 28, 2018. The Tenant received it on this day.

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

Tenant or a person permitted on the property by the tenant has:

- *significantly interfered with or unreasonably disturbed another occupant or the landlord.*
- *seriously jeopardized the health or safety or lawful right of 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.*
- *jeopardize a lawful right or interest of another occupant or the landlord.*

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 used a current form. However, they failed to provide any information in the “details of cause” section. I note this section of the Notice is designed to allow tenants to properly understand the basis for the Notice.

I find that by leaving this portion of the form blank, without the details of cause clearly spelled out, 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. I also note there were several grounds selected on the Notice. Ultimately, by not properly filling out the Notice, I do not find the Landlord has sufficiently clarified to the Tenant, at the time the Notice was issued, the basis for it. Further, I note 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 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. 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 1 Month Notice issued on August 28, 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: October 23, 2018

Residential Tenancy Branch