



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ORCHARD CITY ABBEYFIELD SOCIETY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord filed under the *Residential Tenancy Act* (the “Act”), for an order of possession to enforce a One Month Notice to End Tenancy for Cause, (the “Notice”) issued on July 30, 2018. The matter was set for conference call.

The Landlord, and two members of the Society’s Council (the “Landlord”) as well as the Tenant and his Advocate (the “Tenant”) attended the hearing and were each affirmed to be truthful in their testimony. The Landlord and Tenant were provided with the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

Both the Tenant and the Landlord were provided with the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the 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.

Preliminary Matter

At the outset of this hearing, this Arbitrator asked the Landlord for a copy of the Notice to end the tenancy. The Landlord testified that a copy of the Notice had been submitted with his application. This Arbitrator advised the Landlord that the notice must be issued on the required form in order to be enforced through this office, and that that there is no form RTB-33 (One-Month Notice to End Tenancy for Cause) submitted into documentary evidence.

The Landlord testified that the correct form had been issued and that he would provide a new copy of the Notice after the Hearing.

The Tenant agreed that he had received a Notice and did not dispute the Landlord submitting the evidence after the hearing.

I advised both parties that my findings regarding this application would be contingent on the Landlord submission of the missing Notice to end tenancy. Both parties were advised that the missing evidence would need to be submitted before the end of the business day.

After the hearing, the Landlord submitted three additional documents into evidence. I have carefully reviewed these documents and find that The Landlord submitted a copy of his application for a dispute resolution hearing (form RTB-12-L), pages one and two, as well as another copy of a letter issued by the Landlord, subject heading "*One-Month Notice to End Tenancy for Cause. You may be evicted if you do not respond to this Notice*". I find that the required RTB-33 form has still not be submitted into documentary evidence for these proceedings.

The prerequisite to the issuance of an order of possession is that the landlord has issued a Notice that complies with section 52 of the Act, which states the following:

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,
- (d.1) for a notice under section 45.1 *[tenant's notice: family violence or long-term care]*, be accompanied by a statement made in accordance with section 45.2 *[confirmation of eligibility]*, and
- (e) when given by a landlord, be in the approved form.**

I find that there is a letter from the Landlord to the Tenant regarding a potential notice to end the tenancy in documentary evidence. However, I find that there is no notice to end tenancy issued by the Landlord on the approved form, the approved form being RTB-33 (2016/12), in documentary evidence.

In the absence of that form, I must dismiss the Landlord application.

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 31, 2018

Residential Tenancy Branch