



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ST JAMES PLACE C/O TERRA PROPERTY MANAGEMENT LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

This teleconference hearing was scheduled in response to an application by the Tenants under the *Residential Tenancy Act* (the “Act”) to cancel a One Month Notice to End Tenancy for Cause (the “One Month Notice”).

The Tenants and an advocate for the Tenants attended the teleconference hearing, while no one called into the hearing for the Landlord. As the Landlord was not present, service of the Notice of Dispute Resolution Proceeding (the “Notice of Hearing”) was addressed.

The Tenants and the advocate provided affirmed testimony that the Notice of Hearing documents were sent to the Landlord’s office by registered mail on July 13, 2018. The advocate confirmed that the mail was sent to the service address for the Landlord as noted on the One Month Notice and the mail was claimed on July 16, 2018.

The registered mail tracking number was provided and is included on the front page of this decision. The advocate stated that copies of the Tenants’ evidence was provided to the Landlord in person at their office. I find that the Landlord was duly served with the required documents in accordance with Sections 88 and 89 of the *Act*.

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

Issues to be Decided

Should the One Month Notice to End Tenancy for Cause be cancelled?

If the One Month Notice to End Tenancy for Cause is upheld, is the Landlord entitled to an Order of Possession?

Background and Evidence

The Tenants provided undisputed testimony regarding the tenancy. The tenancy began on April 1, 2018 and current monthly rent is \$1,000.00. A security deposit of \$500.00 was paid at the outset of the tenancy.

The Tenants submitted the One Month Notice into evidence. The One Month Notice, dated July 3, 2018, states the following as the reasons for ending the tenancy:

- 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 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

No further details of cause were provided on the One Month Notice.

The Tenants confirmed receipt of the One Month Notice on July 3, 2018 and stated it was placed in their mailbox. They applied to cancel the One Month Notice on July 11, 2018.

Analysis

In accordance with Rule 6.6 of the *Residential Tenancy Branch Rules of Procedure*, when a tenant applies to cancel a notice to end tenancy, the onus is on the landlord to prove the reasons for ending the tenancy.

The Landlord was not present at the hearing, despite being served with the Notice of Hearing documents. As such, I cannot determine that the reasons for the One Month Notice are valid.

Pursuant to Section 47(4) of the *Act*, tenants have 10 days in which to dispute a One Month Notice. As the Tenants received the One Month Notice on July 3, 2018, and

applied to dispute the notice on July 11, 2018, I find that they applied within the time allowable under the *Act*.

Therefore, the Tenants' application to cancel the One Month Notice is successful. The One Month Notice dated July 3, 2018, is hereby cancelled and of no force of effect. The tenancy continues until ended in accordance with the *Act*.

Conclusion

The One Month Notice dated July 3, 2018 is cancelled and of no force or effect. The tenancy continues until ended in accordance with the *Act*.

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: September 05, 2018

Residential Tenancy Branch