



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 landlord's One Month Notice to End Tenancy for Cause (One Month Notice) pursuant to section 47 of the *Act*.

Both parties attended the hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The tenant was assisted by an advocate M.B.

As both parties were present, service of documents was confirmed. The landlord confirmed receipt of the tenant's Notice of Dispute Resolution Proceeding package and evidence. The landlord confirmed that she did not submit any evidence in this matter. Based on the undisputed testimonies of the parties, I find that the landlord was served with the notice of this hearing in accordance with section 89 of the *Act*.

Preliminary Issue - Procedural Matters

I explained to the parties 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 tenant's Application is dismissed and the landlord has issued a notice to end tenancy that is compliant with the *Act*.

Further to this, the parties were advised that the standard of proof in a dispute resolution hearing is on a balance of probabilities. Usually the onus to prove the case is

on the person making the claim. However, in situations such as in the current matter, where a tenant has applied to cancel a landlord's Notice to End Tenancy, the onus to prove the reasons for ending the tenancy transfers to the landlord as they issued the Notice and are seeking to end the tenancy.

Issue(s) to be Decided

Should the landlord's One Month Notice to End Tenancy for Cause be cancelled? If not, is the landlord entitled to an Order of Possession on the basis of the Notice to End Tenancy?

Analysis

Pursuant to section 63 of the *Act*, the Arbitrator may assist the parties to settle their dispute; and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order. During the hearing the parties discussed the issues between them, turned their minds to compromise and achieved a resolution of their dispute.

Both parties agreed to the following final and binding settlement of the issue currently under dispute at this time:

1. In order to ensure payment of rent on the first of the month, and to provide greater convenience to both parties, the tenant will make rent payments to the landlord by post-dated cheques for three months in advance, beginning December 1, 2018. However, the parties agreed that they would also be open to implementing any other payment method that might be recommended by their banking institutions, as long as the method will ensure rent payment will be made on time and does not add any additional costs to either party.
2. The landlord agreed to provide her banking information to the tenant in order to facilitate rent payment, if needed, for any alternate payment method.
3. By way of this settlement, both parties agreed that: the landlord's One Month Notice to End Tenancy dated August 26, 2018 is cancelled and of no further force or effect; and the tenant's application for dispute resolution in its entirety is cancelled.
4. Both parties agreed that the terms of this settlement as outlined above constitute a final and binding resolution of the tenant's application and the landlord's notice, and that they agreed free of any duress or coercion.

The parties are still bound by all of the rights, responsibilities, terms, conditions and any statutory compensation provisions of the tenancy agreement, the Act, and the associated regulations.

Conclusion

The tenant has agreed to provide post-dated rent cheques to the landlord, unless an alternate and equally acceptable payment method is recommended by the parties' respective banking institutions.

The landlord's One Month Notice to End Tenancy dated August 26, 2018 is cancelled and is 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: October 15, 2018

Residential Tenancy Branch