



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 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 47.

The tenants attended the hearing via conference call and provided undisputed affirmed testimony. The landlord did not attend or submit any documentary evidence. The tenants stated that the landlord was personally served with the notice of hearing package and the submitted documentary evidence on October 24, 2018. I accept the undisputed affirmed testimony of the tenants and find that the landlord was properly served as per sections 88 and 89 of the Act.

At the outset, it was clarified with the tenants that they were seeking orders to cancel 2 separate 1 month notice(s).

During the hearing the tenants stated that the landlord had obtained an order of possession as a result of a previous Residential Tenancy Branch Hearing and as such, could not receive this decision at the provided mailing address. The tenants provided a new mailing address for receipt of this decision. The Residential Tenancy Branch File shall be updated as per the confirmed new address.

Issue(s) to be Decided

Are the tenants entitled to an order cancelling the 1 month notice(s)?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

The tenants provided undisputed affirmed testimony to the following:

On October 7, 2018, the landlord served the tenant with the 1 Month Notice dated October 2, 2018 which was posted to a "gate". The 1 Month Notice sets out an effective end of tenancy date of November 1, 2018 and that it was being given as:

- the tenant is repeatedly late paying rent;
- the tenant has allowed an unreasonable number of occupants in the unit.

The details of cause state,

Copy has also been placed on door.

The tenants have argued that the landlord failed to sign this notice making it invalid.

The second 1 month notice was also submitted in which the date and signature were incomplete, providing an effective end of tenancy date of November 1, 2018 and a service date of October 11, 2018 which also provided two reasons for cause as:

- the tenant is repeatedly late paying rent;
- the tenant has allowed an unreasonable number of occupants in the unit.

No details of cause were listed on this notice.

The tenants have also argued that the landlord failed to sign and date this notice making it invalid.

Analysis

Section 52 of the Act states in part,

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.**

In this case, I accept the tenants undisputed affirmed evidence regarding the unsigned and dated 1 month notice(s) dated October 2, 2018 and the second without a date as invalid. The 2 copies provided clearly show that the landlord failed to complete the 1 month notice(s) properly. As such, these two notice(s) are set aside. The tenants' application is granted. The tenancy shall continue.

Conclusion

The tenants application is granted.

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: November 29, 2018

Residential Tenancy Branch