



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL, MNSD

Introduction

This hearing dealt with the tenant's Application for Dispute Resolution ("application") seeking remedy under the *Residential Tenancy Act* ("Act") to cancel two Four Month Notices to End Tenancy for Demolition, Renovation, Repair or Conversion of Rental Unit dated October 2, 2018 ("4 Month Notice 1") and November 8, 2018 ("4 Month Notice 2") and for a monetary claim of \$16,998.48 for "emotional suffering and for aggravated damages".

The tenant, two tenant advocates ("advocates"), legal counsel for the landlord ("counsel"), the daughter of the landlord, and an agent for the landlord ("agent") attended the teleconference hearing. The parties gave affirmed testimony and were provided the opportunity to present their evidence orally and in writing and documentary form, and make submissions to me. A summary of the evidence is provided below and includes only that which is relevant to my findings below.

Preliminary and Procedural Matters

Rule 2.3 of the Residential Tenancy Branch ("RTB") Rules of Procedure ("Rules") authorizes me to dismiss unrelated disputes contained in a single application. In this circumstance the tenant indicated several matters of dispute on the application, the most urgent of which is the application to set two 4 Month Notices which I am referring to 4 Month Notice 1 and 4 Month Notice 2 in this Decision. I find that not all the claims on the application are sufficiently related to be determined during this proceeding. I will, therefore, only consider the tenants' request to set aside 4 Month Notice 1 and 4 Month Notice 2 at this proceeding. Therefore, the tenant's monetary claim is **dismissed, with leave to re-apply**.

In addition, the parties confirmed their email addresses at the outset of the hearing. The parties confirmed their understanding that the decision would be emailed to the tenant and the tenant's advocate ZM, and that the landlord would be emailed the decision through their counsel.

Issues to be Decided

- Should the 4 Month Notice 1 be cancelled or upheld?
- Should the 4 Month Notice 2 be cancelled or upheld?

Background and Evidence

The 4 Month Notice 1 is dated October 2, 2018 and the tenant has 30 days under the *Act* to dispute the 4 Month Notice 1 which the tenant did by filing their application on October 30, 2018. There was no dispute that the 4 Month Notice 1 indicates on page 2 of 3 that an "X" is marked in the area that states "I have obtained all permits and approvals required by law to do this work" and that the reason stated on 4 Month Notice 1 is listed as "I am ending your tenancy because I am going to perform renovations or repairs that are so extensive that the rental unit must be vacant." Counsel writes in a November 20, 2018 letter to the RTB in part:

"...On October 30th, the plumbing and gas permit was issued. On October 31st, the electrical permit was issued.

So, as of the hearing date all permits will be in place. But they were not in place as the date the notice to end tenancy was issued.

As such, a new 4 month notice has been issued.

The purpose of this letter is to advise the RTB that at the forthcoming hearing, the subject notice will be withdrawn in order to comply with the requirement that all permits be in place before the notice is issued..."

[Reproduced as written]

Regarding the 4 Month Notice 2, it was dated November 8, 2018 and the tenant amended this application to include disputing the 4 Month Notice 2 on November 16, 2018 which is within the 30 day timeline under the *Act*.

On the 4 Month Notice 2, the landlord neglected to fill out the portion of the 4 Month Notice 2 which indicates that either “I have obtained all permits and approvals required by law to do this work” or “No permits and approvals are required by law to do this work.”

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows.

Given the above, there is no dispute that the 4 Month Notice 1 was served prematurely as all permits were not in place as of October 2, 2018 when the 4 Month Notice 1 was dated. Therefore, I cancel 4 Month Notice 1 as there is no dispute that all permits were not in place in the matter before me as of October 2, 2018 when the 4 Month Notice 1 was dated.

Regarding the 4 Month Notice 2, I find the 4 Month Notice 2 does not comply with section 52 of the *Act* as the approved form was not completed as 4 Month Notice 2 fails to indicate if permits were required to do the work or not. Section 52 of the *Act* states:

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, and
- (e) when given by a landlord, be in the approved form.**

[My emphasis added]

Therefore, as the approved form was not completed before it was served on the tenant, I cancel the 4 Month Notice 2.

I find that both the 4 Month Notice 1 and the 4 Month Notice 2 are of no force or effect.

I ORDER the tenancy to continue until ended in accordance with the *Act*.

Conclusion

Both 4 Month Notices 1 and 2 are cancelled and are of no force or effect. The tenancy continues until ended in accordance with the *Act*.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: December 6, 2018

Residential Tenancy Branch