



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CKT HOLDINGS CORPORATION
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNL DRI RP LRE FFT

Introduction

This hearing dealt with an Application for Dispute Resolution (“application”) seeking remedy under the *Residential Tenancy Act* (“Act”) by the tenant to cancel a 4 Month Notices to End Tenancy for Demolition, Renovation, Repair or Conversion of Rental Unit (“4 Month Notice”), to dispute a rent increase, for an order for regular repairs to the unit, site or property, for an order to set limits on the landlord’s right to enter the rental unit, site or property, and to recover the cost of the filing fee.

The tenant and two agents for the corporate landlord (“agents”) attended the teleconference hearing. The parties gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and make submissions to me.

Neither party raised any concerns regarding the service or receipt of documentary evidence. Both parties confirmed that they had received documentary evidence from the other party and that they had the opportunity to review that evidence prior to the hearing.

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 their application, the most urgent of which is the application to cancel a 4 Month Notice. 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 tenant’s request to cancel the 4 Month Notice and the tenant’s application to recover the cost of the filing fee at this proceeding. The balance of the tenant’s application is dismissed, with leave to re-apply.

In addition, the parties confirmed their email addresses at the outset of the hearing. The parties also confirmed their understanding that the decision would be emailed to both parties.

Issues to be Decided

- Should the 4 Month Notice be cancelled or upheld?
- Is the tenant entitled to the recovery of the cost of the filing fee under the *Act*?

Background and Evidence

A copy of the tenancy agreement was submitted in evidence. A month to month tenancy began on June 1, 2014. The monthly rent was originally \$750.00 per month and due on the first day of each month. The rent has been increased twice through two Notices of Rent Increase (“rent increase”), both of which were submitted in evidence. The first rent increase was dated October 31, 2016, which came into effect February 1, 2017 and indicates that the \$750.00 rent was being increased by \$25.00 to \$775.00. The second rent increase was dated October 30, 2017, which came into effect February 1, 2018, and indicates that the \$775.00 rent was being increased by \$30.00 to \$805.00.

Regarding the alleged 4 Month Notice, the tenant confirmed that she has never been served with a proper 4 Month Notice, and instead referred to text communication with the landlord in evidence. In one text the agent writes in part:

After talking to plumbers the strip seat that’s inside your faucet is impossible To remove and I’m afraid if I try I could break it and have water all over the place what needs is to happen is removal of all your tiles walls change the faucet and put in new faucet in order to do this I need to renovate
This is causing problems to the building using so much water the person before who tried to remove it or fix it had stripped it and there’s nothing I can do I want you to start looking for a new place in the near future as I have no choice but to give you four month rental eviction notice which entitles to one months free rent I hope you understand the situation and what’s best for the building Your thoughts on this matter

The tenant replies by stating that if it is the intention of the landlord to evict the tenant to provide the tenant with the proper eviction notice. While the landlord replied “Yes will do” I find there is insufficient evidence to support that a 4 Month Notice was served on the tenant by the landlord.

The agents responded by stating that they have not issued the tenant a 4 Month Notice and that the tenant has applied to dispute a 4 Month Notice that was never issued.

Analysis

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

While it is clear the tenant believed she was being evicted, I find the tenant's application is premature as the tenant has not been served with a 4 Month Notice. I find the tenant's correspondence supports this finding as the tenant herself writes that if it is the landlord's intention to evict her to provide the proper notice. I also find that even though the landlord writes "Yes will do" I find the landlord has not served a 4 Month Notice on the tenant and as a result, I dismiss the tenant's application as it is premature. A 4 Month Notice has not been served on the tenant as of the date of this hearing based on the evidence before me.

For the benefit of both parties, 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.**

[Emphasis added]

A list of the approved RTB forms is available on the RTB website at:
<https://www2.gov.bc.ca/gov/content/housing-tenancy/residential-tenancies/forms>

Based on the above, I do not grant the tenant the recovery of the cost of the filing fee.

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

Conclusion

I find that the tenant prematurely applied to cancel a 4 Month Notice that was not served by the landlord at the time of this hearing. Therefore, the tenant's application is dismissed.

The portion of the tenant's application that was severed under Rule 2.3 noted above is dismissed, with leave to reapply.

I do not grant the filing fee as a result.

The tenancy shall continue until ended in accordance with the *Act*.

This decision will be emailed to the parties as indicated above.

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: January 28, 2019

Residential Tenancy Branch