



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ATIRA PROPERTIES
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC, OLC

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* ("Act") for:

- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause, dated December 10, 2018 ("1 Month Notice"), pursuant to section 47; and
- an order requiring the landlord to comply with the *Act*, *Residential Tenancy Regulation* ("Regulation") or tenancy agreement, pursuant to section 62.

The landlord did not attend this hearing, which lasted approximately 13 minutes. The tenant attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The tenant testified that she personally served the female landlord agent with her application for dispute resolution hearing package on December 18, 2018. She claimed that she served the female landlord who is the building manager named in the landlord's 1 Month Notice, that was provided for this hearing. In accordance with sections 89 and 90 of the *Act*, I find that the landlord's agent was personally served with the tenant's application on December 18, 2018.

The tenant confirmed that she received the landlord's 1 Month Notice on December 10, 2018. This date and service method was indicated by the landlord on page one of the landlord's 1 Month Notice. The effective move-out date on the notice is January 10, 2019. In accordance with sections 88 and 90 of the *Act*, I find that the tenant was duly served with the landlord's 1 Month Notice on December 10, 2018.

The tenant confirmed that if she was evicted from the rental unit, she did not want the landlord to “slander” her in the future with respect to other potential tenancy inquiries. I notified the tenant that I could not deal with potential future events or slander at the Residential Tenancy Branch. Accordingly, this portion of the tenant’s application is dismissed without leave to reapply.

Issues to be Decided

Should the landlord’s 1 Month Notice be cancelled? If not, is the landlord entitled to an order of possession?

Analysis

In accordance with section 47(4) of the *Act*, the tenant must file her application for dispute resolution within ten days of receiving the 1 Month Notice. In this case, the tenant received the 1 Month Notice on December 10, 2018 and filed her application to dispute it on December 18, 2018. Accordingly, I find that the tenant’s application was filed within the ten day time limit under the *Act*.

Where a tenant applies to dispute a 1 Month Notice, the onus is on the landlord to prove, on a balance of probabilities, the ground on which the 1 Month Notice is based. The landlord did not appear at this hearing. The landlord did not meet its onus of proof.

Therefore, as advised to the tenant during the hearing, the landlord’s 1 Month Notice, dated December 10, 2018, is cancelled and of no force or effect. The landlord is not entitled to an order of possession under section 55 of the *Act*. This tenancy will continue until it is ended in accordance with the *Act*.

Conclusion

I allow the tenant’s application to cancel the landlord’s 1 Month Notice. The landlord’s 1 Month Notice, dated December 10, 2018, is cancelled and of no force or effect. The landlord is not entitled to an order of possession under section 55 of the *Act*.

This tenancy continues until it is ended in accordance with the *Act*.

The tenant’s application for an order requiring the landlord to comply with the *Act*, *Regulation* or tenancy agreement is dismissed without leave to reapply.

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: January 28, 2019

Residential Tenancy Branch