



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

This hearing was convened in response to an application by the tenant pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

- cancellation of the landlord’s 1 Month Notice to End Tenancy for Cause (1 Month Notice) pursuant to section 47 of the *Act*.

The tenant attended the hearing while the landlord did not. The tenant was given full opportunity to be heard, to present evidence and to make submissions. The hearing lasted approximately ten minutes with the conference call remaining open until 9:40 A.M.

The tenant explained that he received a 1 Month Notice to End Tenancy after it was posted on his door on December 31, 2018. Pursuant to sections 88 & 90 of the *Act*, the tenant is deemed served with this notice on January 3, 2019.

The tenant said he served the landlord and the property owner with two separate applications for dispute resolution by way of Canada Post Registered Mail. The tenant said these packages were individually sent to the landlord and property owner on January 11, 2019. The tenant provided two separate Canada Post tracking numbers for these applications. No evidence was submitted by either party. Pursuant to sections 89 & 90 of the *Act*, the landlord and property owner are deemed served with this application for dispute on January 16, 2019, five days after its posting.

Issue(s) to be Decided

Can the tenant cancel the landlord’s 1 Month Notice?

Background and Evidence

The tenant provided undisputed testimony that he received two separate 1 Month Notices to End Tenancy for Cause on December 31, 2018. The tenant said one was slid under his door, while a second was attached to the door. In his evidentiary package the

tenant supplied only the first page of the two page notice. No evidence was supplied to the hearing by either party.

The tenant said he wished to dispute the 1 Month Notice and remain in the rental unit.

Analysis

Section 47 of the *Act* provides that upon receipt of a Notice to End Tenancy for Cause the tenant may, within ten days, dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. If the tenant files an application to dispute the notice, the landlord bears the burden to prove the grounds for the 1 Month Notice. I find that the 1 Month Notice to End Tenancy was deemed, pursuant to sections 88 & 90 of the *Act* to have been served to the tenant on January 3, 2013. The tenant disputed this notice on January 9, 2018. The tenant has therefore applied to dispute this notice within the time frame provided by section 47 of the *Act*. Because the landlord did not attend the hearing and provided no evidence in support of the 1 Month Notice, I find the landlord has failed to satisfy the burden of proof and I therefore allow the tenant's application to cancel the 1 Month Notice.

The 1 Month Notice dated December 31, 2018 is dismissed. This tenancy shall continue until it is ended in accordance with the *Act*.

Conclusion

The tenant was successful in cancelling the landlord's 1 Month Notice dated December 31, 2018. This tenancy shall continue until it is ended in accordance with the *Act*.

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: February 12, 2019

Residential Tenancy Branch