



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding VISIO DEVELOPMENTS
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant to cancel a One Month Notice to End Tenancy for Cause, (the “Notice”) issued on February 28, 2019.

The tenant attended the hearing. As the landlord did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The Residential Tenancy Branch Rules of Procedure states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing.

The tenant testified the Application for Dispute Resolution and Notice of Hearing were placed under the door of the office. The tenant stated that they saw the landlord a couple of days later and they indicated they received any documents.

Special rules for certain documents

89 (1) An application for dispute resolution or a decision of the director to proceed with a review under Division 2 of Part 5, when required to be given to one party by another, must be given in one of the following ways:

- (a) by leaving a copy with the person;
- (b) if the person is a landlord, by leaving a copy with an agent of the landlord;
- (c) by sending a copy by registered mail to the address at which the person resides or, if the person is a landlord, to the address at which the person carries on business as a landlord.

In this case, the tenant has not complied with section 89 of the Act, as the Act does not allow an Application for dispute resolution to be served by placing it under a door. As the tenant has not complied with the Act, I dismiss the tenant's application.

Order of possession for the landlord

- 55** (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant to the landlord an order of possession of the rental unit if
- (a) the landlord's notice to end tenancy complies with section 52 [*form and content of notice to end tenancy*], and
 - (b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

I have review the landlord's notice to end tenancy; I find the Notice does not comply with the Act, as the signature date and the effective vacancy date of the Notice are the same. Therefore, I find the content of the notice to end tenancy, is defective and has no force of effect. Therefore, as the Notice does not comply with section 55 (1) (a) of the Act, I find the landlord is not entitled to an order of possession.

Conclusion

The tenant's application to cancel the Notice is dismissed. The landlord is not entitled to an order of possession, as the notice does not meet section 55(1) (a) of 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: March 18, 2019

Residential Tenancy Branch