Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes   CNC, FFT

This hearing dealt with the tenants' Application for Dispute Resolution ("application") seeking remedy under the *Residential Tenancy Act* (*"Act"*) to cancel a 1 Month Notice to End Tenancy for Cause dated December 26, 2018 ("1 Month Notice"), and to recover the cost of the filing fee.

The tenants, the named landlord, and the co-owner of the home MG, attended the teleconference hearing. The parties provided affirmed testimony, were provided the opportunity to present their evidence orally and in documentary form prior to the hearing, and make submissions to me. The parties were also provided an overview of the hearing process. I have only considered the relevant evidence that was served in accordance with the Rules of Procedure.

MG confirmed that the landlord was served with the tenants' documentary evidence and that the landlord had the opportunity to review that evidence prior to the hearing. MG also confirmed that the landlord did not serve any documentary evidence in response to the tenants' application.

Preliminary and Procedural Matters

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.

During the hearing, the surname of the female tenant MH was corrected as the surname contained a spelling error. As a result, the surname was corrected pursuant to section 64(3) of the *Act.*

Issues to be Decided
- Should the 1 Month Notice be cancelled?
- Are the tenants entitled to the recovery of the cost of the filing fee under the *Act?*

Background and Evidence

A copy of the 1 Month Notice was submitted in evidence. According to the 1 Month Notice submitted in evidence and the parties, the landlord dated the 1 Month Notice on December 26, 2018; however, did not serve it on the tenant until January 21, 2019, which the parties confirmed was served personally on January 21, 2019. The tenants applied to dispute the 1 Month Notice on January 22, 2019, which is within the 10 day timeline provided for under section 47 of the *Act.*

The landlord writes in the "Details of Cause(s)" section of the 1 Month Notice the following:

> Please see attached copy of letter from the other tenant detailing the disturbance and safety concerns.

The landlord checked off two different causes on the 1 Month Notice. On the 1 Month Notice under "Details of Cause(s)" it indicates that the RTB may cancel the notice if details are not provided. The effective vacancy date listed on the 1 Month Notice was January 27, 2019.

During the hearing, the tenants and the landlord testified that a letter was not included with the 1 Month Notice to provide details of the causes listed when it was served on the tenants on January 21, 2019.

Analysis

Based on the documentary evidence and the testimony of the parties provided during the hearing, and on the balance of probabilities, I find the following.

1 Month Notice issued by landlord – Section 52 of the *Act* applies in this case and 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,**
> (d.1) for a notice under section 45.1 *[tenant's notice: family violence or long-term care]*, be accompanied by a statement made in accordance with section 45.2 *[confirmation of eligibility]*, and
> (e) **when given by a landlord, be in the approved form.**
>
> [Emphasis added]

In the matter before me, I find the 1 Month Notice does not comply with section 52 of the *Act* and is invalid as the letter detailing the "Details of Cause(s)" portion which would set out the specific allegations of both causes listed by the landlord on the 1 Month Notice was not served with the 1 Month Notice and was also not submitted in evidence. Therefore, I find the 1 Month Notice is not valid as it is missing necessary information and was not completely in full by the landlord. The *Act* requires that notices to end tenancy issued by the landlord be in the approved form due to the fact that the approved forms contain all of the required information a tenant would require to dispute the notice if necessary.

As a result of the above, I cancel the 1 Month Notice dated December 26, 2018 and find that it is of no force or effect. The landlord is also reminded to complete all notices as required by section 52 of the *Act* in the future including to serve any attachments referred to on a notice to end tenancy.

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

As the tenants' application had merit, I find that the tenants are entitled to monetary compensation pursuant to sections 67 and 72 of the *Act,* in the amount of $100.00 to recover the cost of $100.00 filing fee.

I ORDER a one-time rent reduction in the amount of **$100.00** from the tenants' April 2019 rent, in full satisfaction of the tenants' recovery of the cost of the filing fee pursuant to sections 67 and 72 of the *Act.*

Conclusion

The tenants' application is successful.

The 1 Month Notice dated December 26, 2018 is cancelled and is of no force or effect. The tenancy shall continue until ended in accordance with the *Act.*

The tenants have been granted a one-time rent reduction of $100.00 as indicated above in full satisfaction of the recovery of the cost of the filing fee under the *Act.*

This decision will be emailed to both 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: March 7, 2019

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Residential Tenancy Branch