



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Priya Holdings Limited
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNL, MT, OLC

Introduction

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

1. An Order cancelling a notice to end tenancy - Section 49;
2. An Order for more time to made the application to cancel a notice to end tenancy; and
3. An Order for the Landlord’s compliance - Section 62.

The Tenants did not attend the hearing. As the Tenants have not appeared to pursue its application for dispute resolution I dismiss the application. The Landlord appeared and is seeking an order of possession. The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the notice to end tenancy effective in ending the tenancy?

Is the Landlord entitled to an order of possession?

Background and Evidence

On November 30, 2018 the Landlord served the Tenants with a two month notice to end tenancy for landlord’s use (the “Notice”) by serving the Notice to the Tenant in person on November 30, 2018. The Notice sets out an effective date of January 31, 2019 and

sets out as the reason that the Landlord or a close family member of the landlord will occupy the unit.

The Landlord states that the Tenants are still in the unit. The Landlord confirms that the form used for the Notice is dated 2011. The Landlord states that this form was used as it was on hand. The Landlord confirms that it did not obtain information from the Residential Tenancy Branch (the "RTB") about which form was approved for use to end the tenancy for landlord's use.

Analysis

Section 55(1) provides that if a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, an order of possession must be granted to the landlord if, the notice to end tenancy complies in form and content and the tenant's application is dismissed or the landlord's notice is upheld. Section 52 of the Act provides that 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.

Although the Tenants' application to dispute the Notice was dismissed as the Landlord did not use the current approved form, that I note contains differences from the form used by the Landlord, I find that the Notice is not effective. I may not therefore grant an order of possession to the Landlord in the circumstances. The Landlord remains at liberty to issue an effective notice to end tenancy.

Conclusion

The Tenants' application is dismissed. The Landlord is not entitled to an order of possession.

This decision is made on authority delegated to me by the Director of the RTB under Section 9.1(1) of the Act.

Dated: April 29, 2019

Residential Tenancy Branch