



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute codes CNR CNC

Introduction

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

- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46;
- cancellation of a 1 Month Notice to End Tenancy For Cause, pursuant to section 47.

The landlord did not attend this hearing, although I waited until 9:45 a.m. in order to enable the landlord to connect with this teleconference hearing scheduled for 9:30 a.m. The tenants' attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions.

Both parties attended on the original hearing date of March 4, 2019 and the landlord confirmed service of the tenant's applications on this date. The hearing was adjourned to today's date pending the outcome of a review hearing on related matters that was heard on March 11, 2019. The Interim Decision and Notice of Adjourned Hearing was sent by mail to the landlord by the Residential Tenancy Branch.

Based on the above evidence, I am satisfied that the landlord had notice of the tenant's application and this adjourned hearing date. The hearing proceeded in the absence of the landlord.

Issues

Should the landlord's 10 Day Notice and One Month Notice be cancelled? If not, is the landlord entitled to an order of possession?

Background and Evidence

The 10 Day Notice subject to this dispute in dated January 21, 2019. The One Month Notice subject to this dispute in dated January 25, 2019.

Analysis

Section 46 of the Act requires that upon receipt of a Notice to End Tenancy for non-payment of rent the tenant must, within five days, either pay the full amount of the arrears indicated on the Notice or dispute the Notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch. If the tenant makes such an application, the onus shifts to the landlord to justify, on a balance of probabilities, the reasons set out in the 10 Day Notice.

Section 47 of the Act contains provisions by which a landlord may end a tenancy for cause by giving notice to end tenancy. Pursuant to section 47(4) of the Act, a tenant may dispute a One Month Notice by making an application for dispute resolution within ten days after the date the tenant received the notice. If the tenant makes such an application, the onus shifts to the landlord to justify, on a balance of probabilities, the reasons set out in the One Month Notice.

The landlord did not participate in the hearing and as such has failed to provide sufficient evidence to justify grounds to issue both the 10 Day Notice and the One Month Notice. Accordingly, both the 10 Day Notice dated January 21, 2019 and the One Month Notice dated January 25, 2019, are hereby cancelled and of no force or effect.

Conclusion

I allow the tenants' application to cancel the landlord's 10 Day Notice dated January 21, 2019 and One Month Notice dated January 25, 2019, which are hereby cancelled and of no force or effect. This tenancy continues 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: April 23, 2019

Residential Tenancy Branch