



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, LRE, FF

Introduction

The tenant applies to cancel a one month Notice to End Tenancy for cause dated April 18, 2019 and received April 24. He also seeks an order restricting the landlord's right of entry to the rental unit.

The tenant did not attend the hearing. His agent Ms. P.E. reported that he is away for a number of months working. She confirms that he disputes the Notice alleging cause.

It is apparent that the Notice utilized by the landlord is not in current form approved by the director under the *Residential Tenancy Act* (the "Act"). It is a form RTB-33 first issued in 2011 and replaced by RTB-33 (2016/12). Section 52 of the *Act* requires that the landlord use the approved form.

Such an error might be considered negligible if the differing forms were the same in all essentials. That is not the case with form RTB-33. The new, 2016 version contains a completely new area in which a landlord is required to provide "Details of Cause," namely the dates, times, people or other information that says, who, what, where and when caused the issue.

And so, the tenant has not been given this information in the Notice and, the landlord admits, he hasn't been given it in any collateral document.

In these circumstances the tenant has not been given a reasonable opportunity to know and consider the alleged grounds for ending his tenancy and the Notice must be set aside. The landlord is free to issue another Notice for any conduct alleged to have occurred after the date of this Notice.

In light of the tenant's absence from this hearing and any direct evidence on the point, I dismiss his request for an order restricting the landlord's right of entry.

Conclusion

The Notice to End Tenancy dated April 18, 2019 is hereby cancelled.

The tenant is entitled to recover the \$100.00 filing fee paid for this application. I authorize him to reduce his next rent due by \$100.00 in full satisfaction.

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: June 20, 2019

Residential Tenancy Branch