



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **AAT CNC FFT**

Introduction

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

- An order to allow access to the tenant or their guests pursuant to section 30;
- An order to cancel a 1 Month Notice for Cause pursuant to section 47;
- Authorization to recover the filing fees from the landlord pursuant to section 72.

Both the landlord and the tenant attended the hearing. The landlord confirmed receipt of the tenant's application for dispute resolution and had no concerns with timely service of documents.

The tenant testified she did not receive the landlord's evidence. The landlord testified he was not provided with the tenant's forwarding address at the end of the tenancy and did not know where to send his evidence.

Background and Evidence

The landlord testified the tenant had vacated the rental unit at the beginning of June 2019 and the rental unit was abandoned. Other tenants in the building had witnessed moving vans come to the rental unit and take away the tenant's belongings. He changed the locks to the rental unit the first week of June 2019.

The tenant testified she did not abandon the rental unit. She had full intention of remaining in the rental unit but after she was locked out, she had to find new accommodations. She still wishes to dispute the landlord's One Month Notice for Cause ("Notice") although she is no longer seeking to move back in. The tenant disputes the landlord's assertion she has not provided her forwarding address to him.

Analysis

Section 62 of the *Act* determines the Director's authority respecting dispute resolution proceedings. (reprinted below).

- 1) The director has authority to determine
 - a) disputes in relation to which the director has accepted an application for dispute resolution, and
 - b) any matters related to that dispute that arise under this *Act* or a tenancy agreement.
- 2) The director may make any finding of fact or law that is necessary or incidental to making a decision or an order under this *Act*.
- 3) The director may make any order necessary to give effect to the rights, obligations and prohibitions under this *Act*, including an order that a landlord or tenant comply with this *Act*, the regulations or a tenancy agreement and an order that this *Act* applies.
- 4) The director may dismiss all or part of an application for dispute resolution if
 - a) there are no reasonable grounds for the application or part,
 - b) the application or part does not disclose a dispute that may be determined under this Part, or
 - c) the application or part is frivolous or an abuse of the dispute resolution process.
- 5) [Repealed 2006-35-86.]

The parties agree that the tenant is no longer living in the rental unit. As the tenant filed an application seeking to allow her and her guests access to the rental unit (section 30 of the *Act*) and to cancel a One Month Notice for Cause (section 47 of the *Act*), I find the tenant's application no longer discloses a dispute that may be determined under Part 5 of the *Act* [Resolving Disputes]. In accordance with section 62(4)(b), the tenant's application is dismissed.

Section 55 of the *Act* says that 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 the landlord's notice to end tenancy complies with section 52 [*form and content of notice to end tenancy*], and the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

I find that the landlord's One Month Notice complies with the form and content requirements of section 52 as it is signed and dated by the landlord, provides the address of the rental unit, the effective date of the notice, and the grounds for the tenancy to end. Although the tenancy has already ended, I am required to issue an Order of Possession to the landlord, effective June 30, 2019, the earliest date that complies with section 53 of the *Act*.

As the tenant's application was not successful, the recovery fee for the application is not awarded.

Conclusion

I grant an Order of Possession to the landlord effective **1:00 p.m on June 30, 2019.**

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 24, 2019

Residential Tenancy Branch