



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding RAAMCO INTERNATIONAL PROPERTIES CANADIAN LTD. and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC FFT

Introduction

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

- cancellation of a 1 Month Notice to End Tenancy for Cause pursuant to section 47; and
- recovery of the filing fee from the landlord pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The tenants were represented by their family member. The corporate landlord was represented by its agent.

As both parties were present service was confirmed. The parties each testified that they had been served with the other's materials. Based on the evidence I find that each party was served with the respective materials in accordance with sections 88 and 89 of the *Act*.

Residential Tenancy Policy Rule of Procedure 3.7 provides that evidence submitted by a party must be organized, clear and legible. Both parties submitted the evidence in a haphazard and poorly organized manner. Numerous individual files were uploaded instead of a single pdf file containing the materials. Pages were not numbered. The file names were inconsistent and unclear as to their contents. Files were uploaded non sequentially making it difficult to locate specific items. While I have not excluded any of the documentary evidence of either party, I find that the poor presentation detrimentally affects the strength of submissions.

Issue(s) to be Decided

Should the 1 Month Notice be cancelled? If not is the landlord entitled to an Order of Possession?

Background and Evidence

The parties submit that the landlord served a 1 Month Notice on the tenants on May 21, 2019 by posting on the rental unit door.

Neither party provided a copy of the 1 Month Notice into written evidence. The landlord testified that they uploaded all evidence but was unable to provide the name of the file containing the 1 Month Notice despite being asked several times to identify the file.

Analysis

Section 47(4) of the *Act* provides that upon receipt of a notice to end tenancy for cause, the tenant may, within 10 days, dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch.

The parties agree that the tenant received a 1 Month Notice on May 21, 2019. The tenants filed their application for dispute resolution on May 22, 2019. I find that the tenants filed their application within the 10 days provided under the *Act*.

If the tenant files an application to dispute the notice, the landlord bears the burden to prove, on a balance of probabilities, the grounds for the 1 Month Notice.

Neither party submitted the 1 Month Notice into written evidence. In the absence of the notice to end tenancy I find there is insufficient evidence to conclude that a proper notice conforming with the form and content requirements of the *Act* was issued.

Furthermore, Rule of Procedure 7.4 provides that evidence must be presented by a party. The landlord claimed they had uploaded the 1 Month Notice but one was not found in the written materials. Despite being asked several times to identify the file containing the 1 Month Notice the landlord failed to do so, instead just providing the file number for the present application.

I find that the landlord has not met their evidentiary burden. Accordingly, I allow the tenant's application to cancel the 1 Month Notice.

As the tenants were successful in their application the tenants may recover the \$100.00 filing fee. I allow the tenants to recover their filing fee by making a one-time deduction of \$100.00 from their next scheduled rent payment.

Conclusion

The 1 Month Notice is cancelled. This tenancy continues until ended in accordance with the *Act*.

The tenants may make a one-time deduction of \$100.00 from their next scheduled rent payment.

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: July 9, 2019

Residential Tenancy Branch