



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

This teleconference hearing was scheduled in response to an application by the Tenants under the *Residential Tenancy Act* (the “Act”) to cancel a One Month Notice to End Tenancy for Cause (the “One Month Notice”).

Both Tenants and the Landlord were present for the teleconference hearing and were affirmed to be truthful in their testimony. The Landlord confirmed receipt of the Notice of Dispute Resolution Proceeding package and a copy of the Tenants’ evidence. The Landlord did not submit any evidence prior to the hearing.

I have reviewed all oral and written evidence before me that met the requirements of the *Residential Tenancy Branch Rules of Procedure*. However, only the evidence relevant to the issues and findings in this matter are described in this decision.

Issues to be Decided

Should the One Month Notice to End Tenancy for Cause be cancelled?

If the One Month Notice to End Tenancy for Cause is upheld, is the Landlord entitled to an Order of Possession?

Background and Evidence

The parties were in agreement as to the details of the tenancy which were also confirmed by the tenancy agreement submitted into evidence by the Tenants. The tenancy began on January 1, 2019. Monthly rent in the amount of \$1,000.00 is due on

the first day of each month. A security deposit of \$500.00 was paid at the start of the tenancy.

The Landlord testified that he served the Tenants with the One Month Notice in person on June 15, 2019. The One Month Notice was submitted into evidence and does not indicate a reason for ending the tenancy on the second page of the notice. However, details of the cause were provided on the notice as follows:

Because city of [name of city] give a notice to landlord he cannot have secondary suite attached the notice of city by law.

The effective end of tenancy date was stated on the One Month Notice as July 30, 2019. The Landlord stated that he would probably need the Tenants to move by September or October 2019.

The Landlord testified that someone complained to the city and he was told that he cannot have tenants in the basement rental unit. He stated that he received a letter to stop renting out the unit. The Landlord stated that this has nothing to do with the Tenants but instead was based on the information provided by the city.

The Tenants submitted the letter from the city in their evidence. In the letter, dated May 31, 2019, it stated that the property contains a secondary suite that has not been registered. It is further outlined in the letter that charges that may be applicable to the landlord should the secondary suite not be removed. The Tenants also submitted a copy of an invoice from the city for a secondary suite penalty fee.

The Landlord stated that he did not check off a reason on the second page of the One Month Notice as there were none that fit the reason for ending the tenancy. As the reason for the notice was not listed as an option, he left the area blank.

The Tenants confirmed receipt of the One Month Notice on June 15, 2019. They stated that they are happy in their rental unit and do not want to move.

Analysis

Section 47(4) of the *Act* states that a tenant has 10 days to dispute a One Month Notice. As the Tenants confirmed receipt of the notice on June 15, 2019 and filed the Application for Dispute Resolution on June 25, 2019, I find that they applied within the

allowable timeframe. Therefore, the matter before me is whether the One Month Notice is valid.

As stated by rule 6.6 of the *Rules of Procedure*, when a tenant applies to dispute a notice to end tenancy, the onus is on the landlord to prove, on a balance of probabilities, that the reasons for the notice are valid.

In this matter, the Landlord did not submit any documentary evidence although he referenced a letter from the city submitted in the evidence of the Tenants. However, the Landlord did not submit any further evidence to support the issuance of the One Month Notice.

Although the One Month Notice has an effective end of tenancy date of July 30, 2019, the Landlord also testified as to the need for the unit to be vacant in September or October 2019. Based on this and on the lack of evidence from the Landlord, I find that it is not clear whether the rental unit needs to be vacant based on the letter from the city or if it is possible for the tenancy to continue.

I also note Section 52 of the *Act* which states the following:

2 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**,

(d.1) for a notice under section 45.1 [*tenant's notice: family violence or long-term care*], be accompanied by a statement made in accordance with section 45.2 [*confirmation of eligibility*], and

(e) when given by a landlord, be in the approved form.

While the Landlord provided details as to the cause on the One Month Notice, he did not fill out a reason for the notice as indicated on page two. I find that the reason for the notice is required, while providing further details is optional.

As stated above, I also find that the Landlord did not meet the burden of proof to establish that he had cause to serve the Tenants with the One Month Notice. Regardless of this, I find that the notice is not valid as it does not comply with Section 52 of the *Act*.

Accordingly, the Tenants' application to cancel the One Month Notice is successful. The One Month Notice dated June 15, 2019 is cancelled and of no force or effect. This tenancy continues until ended in accordance with the *Act*.

Conclusion

The One Month Notice dated June 15, 2019 is cancelled and of no force or effect. This tenancy continues until 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: August 13, 2019

Residential Tenancy Branch