



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

CNL

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the *Act*) for cancellation of a landlord's 2 Month Notice to End Tenancy for Landlord's Use of Property (the 2 Month Notice) pursuant to section 49.

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 landlord was represented by their agent (the "landlord").

As both parties were present service of documents was confirmed. The tenant confirmed receipt of a 2 Month Notice. The landlord confirmed receipt of the tenant's application for dispute resolution and materials. The landlord testified that they had not served any evidentiary materials.

Issue(s) to be Decided

Should the 2 Month Notice be cancelled? If not is the landlord entitled to an Order of Possession?

Background and Evidence

Neither party provided documentary evidence. No copy of the 2 Month Notice to End Tenancy for Landlord's Use was submitted by either party.

The parties said that the 2 Month Notice was served on the tenant on or about July 2, 2019 and provides an end of tenancy date of September 30, 2019. The tenant filed their present application to dispute the 2 Month Notice on August 2, 2019.

Analysis

Section 49(8) of the *Act* provides that upon receipt of a notice to end tenancy for landlord's use, the tenant may dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch within 15 days of receiving the notice.

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 2 Month Notice.

In the present case the parties agree that a 2 Month Notice was served on the tenant on or about July 22, 2019 and the tenant filed their application to dispute the notice on August 2, 2019. As such, I find that the tenant was within the 15 days provided under the Act to file their application.

Neither party submitted the 2 Month Notice into written evidence. While the landlord gave some testimony about the reasons to end the tenancy, in the absence of the notice, I find there is insufficient evidence to conclude that a proper notice conforming with the form and content requirements of the Act was issued.

I find that the landlord has not met their evidentiary burden. Accordingly, I allow the tenant's application to cancel the 2 Month Notice.

Conclusion

The 2 Month Notice is cancelled and of no further 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: September 12, 2019

Residential Tenancy Branch