



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, LRE, FF, MNDC

Introduction

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

- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 47;
- an order to suspend or set conditions on the landlord's right to enter the rental unit pursuant to section 70;
- authorization to recover their filing fee for this application from the landlord pursuant to section 72.

The tenant, P.B. attended the hearing via conference call and provided testimony. The tenant, J.B. did not attend and was unrepresented. D.F. called into the conference call identifying himself as the owner. Extensive discussions took place on who the landlord is over a 13 minute period in which D.F. stated that he would contact the named landlord to attend and participate. At 9:45am, the named landlord N.H. called in to participate in the conference call hearing. Discussions took place over the next 15 minutes in which both parties agreed to amend the tenant's application for the named landlord's proper name. The hearing began at 10am.

Both parties confirmed that the tenants served the landlord in person with the notice of hearing package. Although documentary evidence was submitted, no evidence was served to the landlord. As such, the tenant's documentary evidence submission is excluded from consideration in this hearing. Both parties confirmed the landlord served the tenants with her documentary evidence submission in person on August 13, 2019. I accept the direct testimony of both parties and find that both parties have been deemed served as per section 90 of the Act with the notice of hearing package and the landlord's documentary evidence submission.

Preliminary Issue(s)

At the outset, the tenants' application was clarified with both parties. The tenants seek an order cancelling a 1 month notice to end tenancy issued for cause and both parties have confirmed that no such notice was issued by the landlord. Section 47 (3) of the Act states that a notice under this section must comply with section 52 [form and content of notice to end tenancy]. Section 52 (e) states in order to be effective, a notice to end a tenancy must be in writing and must when given by a landlord, be in the approved form. The tenants cancelled their request to suspend or set conditions on the landlord's right to enter. The tenants clarified that they will only comply with a notice to end tenancy issued by the landlord in the approved form. The landlord stated that no such notice is required as they have a fixed term tenancy agreement to end on July 1, 2019 which was also amended to allow a later end of tenancy date of July 31, 2019.

The tenants' application is dismissed.

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 13, 2019

Residential Tenancy Branch