



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNL

Introduction

This hearing was held in response to the tenant's Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (the Act) to cancel a 2 Month Notice to End Tenancy for Landlord's Use of Property dated September 30, 2019 (2 Month Notice).

The landlord attended the teleconference hearing. At the start of the hearing I introduced myself and affirmed the landlord. The hearing process was explained to the landlord and the landlord was provided the opportunity to ask questions during the hearing.

The tenant did not attend although the Notice of Dispute Resolution Proceeding document dated October 22, 2019 (Notice of Hearing) clearly indicates that the hearing was scheduled for this date, Friday, November 22, 2019 at 1:30 p.m. Pacific Time. The hearing commenced at 1:30 p.m. and the only people on the teleconference call was the landlord and the undersigned arbitrator. After the mandatory 10-minute waiting period, the tenant's application was dismissed without leave to reapply as the respondent landlord attended the hearing and was prepared to proceed.

Preliminary and Procedural Matter

The decision will be emailed to both parties at the email addresses for the parties provided by the tenant in their application. The hearing lasted a total of 15 minutes.

Issue to be Decided

- Should the 2 Month Notice be cancelled?

Background and Evidence

A copy of the 2 Month Notice was reviewed during the hearing to ensure it complied with section 52 of the Act.

Analysis

Based on the documentary evidence before me, and on the balance of probabilities, I find the following.

As the tenant failed to attend the hearing, and the tenant's application was dismissed without leave to reapply, section 55 of the Act applies and states the following:

Order of possession for the landlord

55(1) 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

(a) **the landlord's notice to end tenancy complies with section 52 [form and content of notice to end tenancy], and**

(b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

[Emphasis added]

As a result, I have reviewed the 2 Month Notice submitted in evidence and have considered section 52 of the Act, which applies and states:

Form and content of notice to end tenancy

52 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.**

[Emphasis added]

Having reviewed the 2 Month Notice served on the tenant by the landlord, I find the 2 Month Notice was not on the prescribed form as required by section 52(e) of the Act. The 2 Month Notice was on an outdated form. Just one the important components of the prescribed form reflects a change in the Act as of May 17, 2018, which allows for compensation for the tenant in the amount of 12 times the monthly rent payable under the tenancy agreement as indicated in section 51(2) of the Act. As a result, I do not grant the landlord an order of possession as the 2

Month Notice is not on the prescribed form. The landlord is reminded to only use the prescribed forms under the Act located at:

<https://www2.gov.bc.ca/gov/content/housing-tenancy/residential-tenancies/forms> in the future.

As a result of the above, the tenancy shall continue until ended in accordance with the Act. The landlord is at liberty to serve a new 2 Month Notice that complies with section 52 of the Act.

Conclusion

The tenant's application to cancel the 2 Month Notice is dismissed without leave to reapply.

An order of possession is not granted as the 2 Month Notice issued by the landlord is outdated and not on the prescribed form.

The tenancy shall continue until ended in accordance with the Act.

The landlord is at liberty to serve a new 2 Month Notice that complies with section 52 of the Act.

This decision will be emailed to both parties as indicated above.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: November 22, 2019

Residential Tenancy Branch