



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC

Introduction

This hearing was convened by way of conference call. The Landlord filed an Application for Dispute Resolution on December 29, 2019 (the “Application”). The Landlord applied for an Order of Possession based on a One Month Notice to End Tenancy for Cause.

The Landlord and Tenant appeared at the hearing. I explained the hearing process to the parties who did not have questions when asked. The parties provided affirmed testimony.

The Application originally named two landlords. Both parties agreed to W.O. being removed as a landlord. The Landlord confirmed she was a part owner of the rental unit at the time the tenancy agreement was entered into and is currently a part owner of the rental unit.

The Landlord had submitted evidence prior to the hearing. The Tenant confirmed receipt of the hearing package and Landlord’s evidence.

The Tenant testified that she submitted evidence prior to the hearing. I did not have this evidence. The Landlord did have this evidence. I told the Tenant she could re-submit the evidence. At the end of the hearing, I told the Tenant she did not need to re-submit the evidence given the decision.

The parties were given an opportunity to present relevant evidence and make relevant submissions. I have considered the documentary evidence and oral testimony of the parties. I will only refer to the evidence I find relevant in this decision.

Issue to be Decided

1. Is the Landlord entitled to an Order of Possession based on a One Month Notice to End Tenancy for Cause?

Background and Evidence

A written tenancy agreement was submitted as evidence and the parties agreed it is accurate. The agreement names W.O. as the landlord; however, both parties agreed the Landlord is now the landlord. The agreement names the Tenant as well as three other tenants. Both parties agreed all tenants named on the agreement have separate tenancy agreements with the Landlord and are not co-tenants. Both parties agreed the tenancy started September 01, 2019 and is a month-to-month tenancy. Both parties agreed the Tenant does not pay rent but is responsible for paying utilities and water. The Tenant also testified that she pays for cable. The Landlord testified that the Tenant never paid a security deposit. The Tenant testified that she paid a \$375.00 security deposit. The agreement is signed by both the Tenant and N.W. However, both parties again confirmed that N.W. is not a co-tenant.

The Landlord had submitted a copy of the One Month Notice to End Tenancy for Cause. It is a one-page handwritten note from the Landlord to the Tenant dated November 24, 2019. It states that it is being issued for the Tenant "breaking the rental contract agreement section 6.13." The Landlord confirmed this was the only notice issued to the Tenant. The Landlord confirmed she did not issue the Tenant a notice on an RTB form.

I told the parties I did not need to hear from them further in relation to the notice as I would not issue an Order of Possession based on it given it does not comply with section 52 of the *Residential Tenancy Act* (the "*Act*"). I told the Tenant she did not need to re-submit her evidence given this.

Analysis

Section 47 of the *Act* deals with One Month Notices to End Tenancy for Cause. Section 47(3) of the *Act* states:

- (3) A notice under this section must comply with section 52...

Section 52 of the *Act* states:

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)

Policy Guideline 18 addresses forms and states in part:

Using a form that is not approved by the Director may be valid if it contains the required information and is not intended to mislead.

If an application is made on an old form, an arbitrator may amend the form or accept the application as validly filed. The arbitrator may refuse to amend the current form if a respondent proves prejudice that is attributable to the use of the old form. An arbitrator may not amend a form which does not contain the required information.

(emphasis added)

The notice issued here was not on the approved form as it was not on the RTB form. The notice does not include the information provided on the RTB form such that it could be considered an equivalent form. The notice does not comply with section 52 of the *Act* and is not an effective notice to end tenancy. Further, the Landlord has not

complied with section 47(3) of the *Act*. In the circumstances, I decline to issue the Landlord an Order of Possession based on the notice.

The Application is dismissed without leave to re-apply. The tenancy will continue until ended in accordance with the *Act*.

Conclusion

The Application is dismissed without leave to re-apply. The tenancy will continue 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 *Act*.

Dated: March 02, 2020

Residential Tenancy Branch