



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

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

- cancellation of the One Month Notice to End Tenancy for Cause (the Notice), issued pursuant to section 47 of the Act.

The landlord's agent GS and tenant SMA called into this teleconference hearing. The landlord confirmed they received the Notice of Dispute Resolution from the tenant by registered mail around February but could not recall the exact date and the tenant advised that they had moved out their personal belongings and were unaware of the exact date. The landlord's agent agreed that they were served with the Notice of Dispute Resolution and evidentiary materials; consequently, pursuant to section 71 (2) I find the documents are sufficiently served.

I note that section 55 of the Act requires that when a tenant submits an application for dispute resolution seeking to cancel a notice to end tenancy issued by a landlord, I must consider if the landlord is entitled to an order of possession if the application is dismissed and the landlord has issued a notice to end tenancy that is compliant with the Act.

Issue to be Decided

1. Is the tenant entitled to an order to cancel a One Month Notice to End Tenancy for Cause, pursuant to section 47 of the Act?
2. Is the landlord entitled to an Order of Possession pursuant to section 55 of the Act?

Background and Evidence

The tenancy started on July 1, 2018. Rent was \$1,450.00 per month, due on the first day of the month. A copy of the tenancy agreement was submitted into evidence. The One Month Notice (Notice) dated January 30, 2020 was served in person with an effective date of March 1, 2020. The tenant affirmed that she was calling from “work” and had called the Residential Tenancy Branch who advised her to attend the hearing and have the Notice cancelled.

The tenant advised that they had vacated the rental property but have a few possessions which will be “cleared out” by Sunday April 19, 2020 and wished to cancel or withdraw the Application for Dispute Proceedings. The landlord affirmed that he had no objection.

Analysis

The tenants had applied to cancel the Notice so the tenancy could continue. The tenant has provided affirmed testimony that they have vacated the rental property and do not wish the tenancy to continue. The landlord affirmed that he had no objection.

Section 62(4)(b) of the Act the Arbitrator may dismiss all or part of an application for dispute resolution which does not disclose a dispute that may be determined under the Act. I exercise my authority under section 62(4)(b) of the Act to dismiss this application for dispute resolution.

Accordingly, I order the application dismissed without leave to reapply.

Conclusion

The tenants’ application is dismissed without leave to reapply.

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: April 20, 2020