



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **CNC, MNRT, RR, PSF, CNR, LAT, LRE, OLC**

Introduction

This hearing dealt with two separate applications filed by the tenants' application pursuant to the *Residential Tenancy Act* (the "Act"). In their first application filed February 18, 2020 the tenants seek:

- Cancellation of a 1 Month Notice to End Tenancy for Cause (the "1 Month Notice") pursuant to section 47.

In their second application filed March 10, 2020 the tenants seek:

- A monetary award for damages and loss pursuant to section 67;
- Authorization to reduce the rent for the tenancy pursuant to section 65;
- An order that the landlord provide services or facilities pursuant to section 65;
- Cancellation of a 10 Day Notice to End Tenancy for Unpaid rent pursuant to section 46;
- Authorization to change the locks to the rental unit and suspend the landlord's right to enter the rental unit pursuant to section 70; and
- An order that the landlord comply with the Act, regulations or tenancy agreement pursuant to section 62.

The landlords did not attend this hearing which lasted approximately 20 minutes. The teleconference line remained open for the duration of the hearing and the Notice of Hearing was confirmed to contain the correct hearing information. One of the named tenants appeared, confirmed they represented both named applicants and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

During the hearing the tenant withdrew the second application filed March 10, 2020 in its entirety.

The tenant gave evidence that they had served both named respondents with their application of February 18, 2020 and evidence by registered mail sent on March 2, 2020. The tenant provided two valid Canada Post tracking numbers as evidence of service. Based on the evidence I find that each landlord is deemed served with the tenants' materials on March 7, 2020, in accordance with sections 88, 89 and 90 of the *Act*.

Issue(s) to be Decided

Should the 1 Month Notice be cancelled? If not are the landlords entitled to an Order of Possession?

Background and Evidence

The tenant provided undisputed evidence regarding the following facts. This tenancy began on January 1, 2020. Monthly rent is \$1,500.00 payable by the first of each month. No security or pet damage deposit was paid. There is no written tenancy agreement between the parties.

The tenant says they were served with a 1 Month Notice dated February 3, 2020 and disputed the notice by filing an application on February 18, 2020.

Analysis

Section 46 of the *Act* provides that upon receipt of a notice to end tenancy for cause the tenant may, within ten days, dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. If the tenant files an application to dispute the notice, the landlord bears the burden to prove the grounds for the 1 Month Notice.

In the matter at hand the tenant acknowledged receipt of the 1 Month Notice dated February 3, 2020 but was uncertain what date it was served on them. In the absence of evidence as to the date on which the 1 Month Notice was served on the tenant, I find that the tenant was within the statutory time limit to file an application to dispute the 1 Month Notice on February 18, 2020.

Because the landlords did not attend the hearing I find the landlords have failed to satisfy the burden of proof to show the grounds for the 1 Month Notice and I therefore allow the tenant's application to cancel the 1 Month Notice.

Conclusion

The tenants' application to cancel the 1 Month Notice is allowed. The Notice is of no continuing force or effect. This tenancy continues until ended in accordance with the *Act*.

The balance of the tenants' application is withdrawn and dismissed with 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 27, 2020

Residential Tenancy Branch