



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL MNDC LRE O FF

Introduction

This hearing was convened as a result of the Tenants' Application for Dispute Resolution. A hearing by telephone conference was held on April 30, 2020. The Tenants applied for multiple remedies, pursuant to the *Residential Tenancy Act* (the "Act").

The Tenants attended the teleconference hearing; however, the Landlord did not. The Tenants testified that they personally delivered their Notice of Dispute Resolution Proceeding, their amendment, and their evidence, to the mailbox at the Landlord's residence on March 6, 2020. Pursuant to section 89 and 90 of the Act, I find the Landlord is deemed to have received this package 3 days after it was left in their mailbox, on March 9, 2020. I am satisfied the Landlord has been sufficiently served with the application package, amendment and evidence.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Preliminary and Procedural Matters

The Tenants applied for multiple remedies under the *Act*, a number of which were not sufficiently related to one another.

Section 2.3 of the Rules of Procedure states that claims made in an Application must be related to each other and that arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.

After looking at the list of issues before me at the start of the hearing, I determined that the most pressing and related issues deal with whether or not the tenancy is ending. As a result, I exercised my discretion to dismiss all of the grounds the Tenants applied for, with leave to reapply, with the exception of the following claims:

- to cancel the 2 Month Notice to End Tenancy for Landlord's Use of the Property (the Notice)

Issue to be Decided

- Should the Notice be cancelled?

Background, Evidence, and Analysis

The Tenants stated that they received the Notice on February 14, 2020, and the Landlord indicated that he was ending the tenancy so that his family member could move in. The Tenants do not believe the Notice was issued in good faith.

In the matter before me, the Landlord who issued the Notice has the onus of proof to prove that the Notice is valid. I find that the Landlord was properly served with the Notice of Hearing and failed to attend the hearing to prove the allegation within the Notice.

Therefore, as the Landlord did not attend the hearing by 11:10 AM on April 30, 2020, I cancel the Notice, dated February 14, 2020.

I Order the tenancy to continue until ended in accordance with the Act.

Conclusion

The Tenant's application is successful. The Notice issued by the Landlord dated February 14, 2020, is cancelled.

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 *Residential Tenancy Act*.

Dated: April 30, 2020