



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Ivanhoe Hotel
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNE

Introduction

The tenant filed an Application for Dispute Resolution (the “Application”) on March 23, 2020 seeking an order to cancel the One Month Notice to End Tenancy (the “One Month Notice”) for Cause. The matter proceeded by way of a hearing pursuant to section 74(2) of the *Residential Tenancy Act* (the “Act”) on May 11, 2020. In the conference call hearing I explained the process and offered the attending party the opportunity to ask questions.

The tenant attended the hearing, and they were provided the opportunity to present oral testimony and make submissions during the hearing. The landlord did not attend the telephone conference call hearing.

To proceed with this hearing, I must be satisfied that the tenant made reasonable attempts to serve the landlord with the Notice of Dispute Resolution for this hearing. This means the tenant must provide proof that the document has been served using a method allowed under section 89 of the *Act*, and I must accept that evidence.

The tenant set out how they served this notice to the landlord personally on March 25, 2020. They provided the name of the landlord’s agent they served as well as the name of another individual present who witnessed that transaction. The tenant stated that the package they gave to the landlord included all the evidence they intended to rely on for this hearing.

Based on the submissions of the tenant, I accept they served the notice of this hearing in a manner complying with section 89(1)(c) of the *Act*. The hearing thus proceeded in the landlord’s absence.

Issue(s) to be Decided

Is the tenant entitled to an order to cancel the One Month Notice pursuant to section 47 of the *Act*?

If the tenant is unsuccessful in seeking to cancel the One Month Notice, is the landlord entitled to an order of possession pursuant to section 55 of the *Act*?

Background and Evidence

I have reviewed all evidence before me; however, only the evidence and submissions relevant to the issues and findings in this matter are described in this section.

The tenant submitted the following relevant material:

- A copy of the Rental Agreement signed November 15, 2016. This document sets out the monthly rent amount and identifies the rental unit by its address.
- A copy of the One Month Notice signed by the landlord on March 12, 2020 – the tenant stated that they received this document on the same day.

The tenant stated that they had a discussion with an agent of the landlord immediately upon receiving the One Month Notice. In reply, the landlord's agent stated someone else served the document fraudulently. Upon the tenant seeking more clarification, the landlord stated a computer error led to the second page of the One Month Notice being completed incorrectly, and the document bears incorrect information on it.

The landlord did not provide documentary evidence for this hearing and did not attend to provide oral testimony.

Analysis

Section 47(1) of the *Act* provides that a landlord may end a tenancy by giving a One Month Notice “if. . . (b) the tenant is repeatedly late paying rent. . .”

When a landlord issues a One Month Notice and the tenant files an application to dispute the matter, the landlord bears the burden of proving they have grounds to end

the tenancy and must provide sufficient evidence to prove the reason to end the tenancy.

In this case, the One Month Notice was issued pursuant to section 47(1), and I accept the tenant's undisputed evidence that they received this document on March 12, 2020.

As the tenant's Application was filed on March 23, 2020, I find that they have disputed the Notice within the timeframe required under the *Act*.

In the absence of the landlord or any evidence from the landlord to support the reason listed in the One Month Notice, I order the One Month Notice to be cancelled. The tenancy continues until it may otherwise legally end under the *Act*.

Conclusion

For the reasons above, I order the One Month Notice issued on March 12, 2020 is cancelled and the tenancy remains in full force and effect.

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: May 11, 2020

Residential Tenancy Branch