Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

<u>Dispute Codes</u>   CNC

<u>Introduction</u>

The tenant filed an Application for Dispute Resolution (the "Application") on March 18, 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 14, 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 I provided them 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 by courier on March 25, 2020. They stated this was within 3 days as required, and they paid approximately $15.00 to have the hearing information couriered to the landlord. They also stated they spoke to the landlord after courier service on April 1, and the landlord knew about 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?

If unsuccessful in this Application, is the landlord entitled to an Order of Possession of the rental unit?

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 did not submit documentary evidence for this hearing. They provided details on the One Month Notice issued on March 17, 2020. This gave the date of March 31, 2020 as the date by which the tenant must vacate the unit. They stated the document did not bear the landlord's signature.

The tenant provided testimony that the landlord served the notice on false charges. There was confusion about the tenant's guests being those of a neighbouring unit in the building. Also, a building rule about no more than three people within a unit visiting – presumably a reason this One Month Notice was served -- was not broken by the tenant here.

The landlord did not attend to provide a response to this testimony.

Analysis

Section 47(1) of the *Act* provides that a landlord may end a tenancy by giving a One Month Notice for Cause

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 17, 2018.

Because the tenant filed their Application on March 18, 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 17, 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 14, 2020

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Residential Tenancy Branch