



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, OLC

Introduction

In this dispute, the tenant sought an order to cancel a One Month Notice to End Tenancy for Cause (the "Notice") pursuant to section 47 of the *Residential Tenancy Act* (the "Act"), and, an order that the landlord comply with the Act, the regulations, or the tenancy agreement, pursuant to section 62(3) of the Act.

The tenant applied for dispute resolution on April 23, 2020 and a dispute resolution hearing was held, by way of telephone conference, on May 22, 2020. The tenant attended the hearing, but the landlord did not. The tenant testified that he served a copy of the Notice of Dispute Resolution Proceeding package on the landlord by e-mail on April 23, 2020. He indicated that this was to the same email as he uses to send rent. Moreover, I note that the landlord submitted various documentary evidence into the Dispute Management System several days ago. As such, it is likely that, on a balance of probabilities, the landlord received the Notice of Dispute Resolution Proceeding. Based on these facts and the testimony of the tenant, I therefore find that the tenant served the landlord with the Notice of Dispute Resolution Proceeding package in compliance with sections 89(1)(e) and 71(2)(b).

Preliminary Issue 1: Application for an Order under Section 62 of the Act

The tenant's application included a claim for an order under section 62 of the Act. The following was provided in the description section of the application:

The landlord is "fearful of the management company", her words. In my opinion, they're corrupt and they're creating problems where there are none. The landlord has no proof, nor does the management company, that I have rented short-term. I have asked for this proof and they have not provided any.

Section 59(2)(b) of the Act requires that an application for dispute resolution must “include full particulars.” In this case, I do not find that the submission by the tenant in his application consists of full particulars. As such, I dismiss this portion of his application with leave to reapply. That having been said, the subject matter referenced in this portion appears to relate to the Notice.

Preliminary Issue 2: Non-Attendance of Landlord

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim. Where a tenant applies to dispute a One Month Notice to End Tenancy for Cause, the onus is on the landlord to prove, on a balance of probabilities, the grounds on which the Notice is based.

The tenant confirmed that he was served with the Notice by registered mail on February 22, 2020, and that Notice indicated that the tenancy would end on March 30, 2020. The Notice appears to have been properly completed and served.

Given that the landlord failed to attend the hearing and prove her case, I hereby order that the Notice is cancelled. It is of no force or effect and the tenancy shall continue until it is 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 Act.

Dated: May 22, 2020

Residential Tenancy Branch