



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **CNC, OLC, RP, LRE, AAT**

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- Cancellation of a 1 Month Notice to End Tenancy for Cause (the "1 Month Notice") pursuant to section 47;
- An order that the landlord comply with the Act, regulations or tenancy agreement pursuant to section 62;
- An order for the landlord to make repairs to the rental unit pursuant to section 33;
- An order restricting the landlord's right to enter the rental unit pursuant to section 70; and
- An order that the landlord allow access to the rental unit pursuant to section 70.

The landlord did not attend this hearing which lasted approximately 15 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. The tenant appeared and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The tenant testified that they served the landlord with their notice of application and evidence by registered mail on July 14, 2020, sent to the address for service provided by the landlord. The tenant submitted a valid Canada Post tracking receipt as evidence of service. Based on the evidence I find that the landlord is deemed served with the tenant's materials on July 19, 2020, five days after mailing, in accordance with sections 88, 89 and 90 of the *Act*. I note that pursuant to Residential Tenancy Policy Guideline 12, the refusal of a party to accept or pick up registered mail does not override the deemed service provisions of the *Act*.

Issue(s) to be Decided

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

Are the tenants entitled to any of the other relief sought?

Background and Evidence

The tenant provided little information regarding this tenancy, despite being provided a full opportunity to make submissions. The tenant said that they were served with a 1 Month Notice on July 3, 2020. The tenant filed an application to dispute the notice on July 13, 2020.

The tenant submits that they feel uncomfortable residing in the rental unit as the landlord has made threats against them, has attended at the rental unit without prior notice and has engaged in physical attacks with the tenant's guests. The tenant also submits that the cupboard doors and closet doors require repair.

Analysis

Section 47 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, on a balance of probabilities, the grounds for the 1 Month Notice.

In the present case I accept the evidence of the tenant that they were served with the 1 Month Notice on July 3, 2020 and filed their application to dispute the notice on July 13, 2020. Therefore, I find that the tenant was within the statutory deadline to file their application.

Because the landlord did not attend the hearing I find the landlord has 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.

I find that the tenant has not met their evidentiary burden on a balance of probabilities for the balance of their application. The tenant provided no testimony regarding the relief sought in their application and the only piece of documentary evidence submitted consists of two handwritten pages detailing why they dispute the 1 Month Notice and

making some reference to conflicts regarding payment of rent earlier in the year with a previous manager. In the absence of cogent testimony or documentary evidence I find that the tenant has not met their evidentiary onus and consequently dismiss the balance of the application without leave to reapply.

Conclusion

The 1 Month Notice dated July 2, 2020 is cancelled and of no further force or effect. This tenancy continues until ended in accordance with the Act.

The balance of the application is dismissed without 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: August 20, 2020

Residential Tenancy Branch