



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, OLC

Introduction

This hearing convened as a result of a Tenant's Application for Dispute Resolution, filed on July 14, 2020, wherein the Tenant sought to cancel a 1 Month Notice to End Tenancy for Cause issued on July 14, 2020 (the "Notice") as well as an Order that the Landlords comply with the *Residential Tenancy Act* (the "Act") and the *Residential Tenancy Regulation* (the "Regulation").

The hearing of the Tenant's Application was conducted by teleconference at 9:30 a.m. on August 21, 2020. Both parties called into the hearing and were provided the opportunity to present their evidence orally and in written and documentary form and to make submissions to me.

issues with respect to service or delivery of documents or evidence were raised. I have reviewed all oral and written evidence before me that met the requirements of the *Residential Tenancy Branch Rules of Procedure*. However, not all details of the parties' respective submissions and or arguments are reproduced here; further, only the evidence specifically referenced by the parties and relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

1. Should the Notice be cancelled?
2. Should the Landlord be ordered to comply with the *Act* and the *Regulation*?

Background and Evidence

The Tenant stated that the tenancy began approximately five years ago. She confirmed that there is no written tenancy agreement.

The Landlord issued the Notice on July 14, 2020. The reasons cited on the Notice were as follows:

“Non-compliance with an order under the legislation within 30 days after tenant received the order or the date of the order.”

Residential Tenancy Branch Rules of Procedure—Rule 6.6 provides that when a tenant applies to cancel a notice to end tenancy the landlord must present their evidence first as it is the landlord who bears the burden of proving (on a balance of probabilities) the reasons for ending the tenancy.

The Landlords confirmed that they have not appeared before the Residential Tenancy Branch before and they did not have an Order from the Branch.

The Landlords issued the Notice pursuant to section 47(l) which reads as follows:

47 (1)A landlord may end a tenancy by giving notice to end the tenancy if one or more of the following applies:

...

(l)the tenant has not complied with an order of the director within 30 days of the later of the following dates:

(i)the date the tenant receives the order;

(ii)the date specified in the order for the tenant to comply with the order.

As no formal Orders have been made by the Residential Tenancy Branch, section 47(1)(l) is not applicable. Accordingly, the Notice is invalid. I therefore grant the Tenant’s request to cancel the Notice.

Both parties indicated that they have tried to discuss finalizing a written tenancy agreement and have yet to do so. Clearly having this document finalized will clarify the parties’ rights and responsibilities as they relate to this tenancy and may prevent future conflict. The parties were encouraged to review the standard form tenancy agreement on the Residential Tenancy Branch website as well as the Schedule to the *Regulations* both of which set out the standard terms of a tenancy agreement and which can be located at:

https://www2.gov.bc.ca/assets/gov/housing-and-tenancy/residential-tenancies/forms/rtb1_chrome.pdf

https://www.bclaws.ca/civix/document/id/complete/statreg/10_477_2003#Schedule

Should the parties be unable to finalize a written tenancy agreement by September 30, 2020, they shall each be at liberty to make an Application to the Residential Tenancy Branch for further direction and Orders.

As the above relates to the Tenant's request for an Order that the Landlord comply with the *Act* and *Regulation*, I dismiss this portion of the Tenant's claim with leave to reapply.

The Tenant stated that she wished to recover the \$100.00 filing fee, however, she did not make a formal request for this relief nor did she amend her application to include this claim.

Hearings before the Residential Tenancy Branch are conducted in accordance with *Residential Tenancy Branch Rules of Procedure*. *Rule 2.2* provides that the claim is limited to what is stated in the application; as such, I decline the Tenant's request to recover the filing fee.

Conclusion

The Notice is cancelled. The tenancy shall continue until ended in accordance with the *Act*.

The Tenant's request for an Order that the Landlords comply with the *Act* and *Regulation* is dismissed with leave.

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 21, 2020

Residential Tenancy Branch