



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC OLC

Introduction

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

- cancellation of the landlord's One Month Notice to End Tenancy for Cause (the "**Notice**") pursuant to section 47; and
- an order requiring the landlord to comply with the Act, regulation or tenancy agreement pursuant to section 62.

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 9:42 am in order to enable the tenant to call into this teleconference hearing scheduled for 9:30 am. The landlord and his daughter ("**AN**") attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. One witness of the landlord called into the hearing as well ("**DW**"). I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord, AN, DW and I were the only ones who had called into this teleconference.

Preliminary Issue – Rental Unit Not Habitable

The rental unit is a basement suite located in a two-unit single detached house (the "**House**"). The landlord and his family live in the upper unit.

AN testified that, on the evening of September 1, 2020, the tenant set fire to the House, which rendered both units uninhabitable.

AN testified that, as this event occurred so recently, the landlord did not submit any documentary evidence supporting this assertion. However, she testified that the fire was reported by the local newspaper. I located the newspaper article, which stated the date and approximate location of the fire (the cross-streets where the House is located), that "several people are displaced due to the fire" and that "more than two dozen firefighters were called".

In light of this corroboration, and in light of the fact the tenant did not attend to dispute AN's testimony, I accept AN's testimony that the House was on fire on September 1, 2020, and

that it is no longer inhabitable. I explicitly make no finding as to the cause of the fire. There is insufficient evidence before me to make any such finding.

I find that the tenancy has ended. The cause of the fire is not relevant in my coming to this conclusion.

I find that the rental unit is uninhabitable, and, per section 44(1)(f) of the Act, order that the tenancy has ended. I dismiss the tenant's application without leave to reapply.

I find that a fire which has rendered a rental unit uninhabitable meets the high standard required to show that the tenancy agreement has ended. The nature, meaning, purpose, effect and consequences of the tenancy agreement have been significantly altered by the fire and the resulting damage.

Section 55 of the Act states:

Order of possession for the landlord

55 (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant to the landlord an order of possession of the rental unit if

- (a) the landlord's notice to end tenancy complies with section 52 [*form and content of notice to end tenancy*], and
- (b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

I find that, notwithstanding the omission of the day of the month on which the Notice is effective (which is automatically corrected by section 53 of the Act), the Notice complies with section 52 of the Act. As stated above, I dismiss the tenant's application.

As such, pursuant to section 55 of the Act, I order that the tenant deliver vacant possession of the rental unit to the landlord within two days of being served with a copy of this decision and attached order by the landlord.

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: September 3, 2020

Residential Tenancy Branch