



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with The Tenant's Application for Dispute Resolution which was made on August 4, 2020 (the "Tenant's Application"). The Tenant applied to cancel a One Month Notice to End Tenancy for Cause (the "One Month Notice") dated July 30, 2020, pursuant to the Residential Tenancy Act (the "*Act*"):

The Tenant, the Tenant's advocate, and the Landlord attended the hearing at the appointed date and time. At the beginning of the hearing, the parties acknowledged receipt of their respective application package and documentary evidence. No issues were raised with respect to service or receipt of these documents during the hearing. Pursuant to section 71 of the *Act*, I find the above documents were sufficiently served for the purposes of the *Act*.

The parties were given an opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

I note that Section 55 of the *Act* requires that when a tenant submits an Application for Dispute Resolution seeking to cancel a notice to end tenancy issued by a landlord I must consider if the landlord is entitled to an order of possession if the Application is dismissed and the landlord has issued a notice to end tenancy that is compliant with the *Act*.

Issue(s) to be Decided

1. Is the Tenant entitled to an order cancelling the One Month Notice pursuant to Section 47 of the *Act*?
2. If the Tenant is not successful in cancelling the One Month Notice, is the Landlord entitled to an order of possession, pursuant to Section 47, 55 of the *Act*?

Background and Evidence

The parties testified and agreed to the following; the tenancy began on February 1, 2018. Currently, the Tenant is required to pay rent in the amount of \$750.00 which is due to the Landlord on the first day of each month. The Tenant was not required to pay a deposit. The Tenant continues to occupy the rental unit.

The Landlord testified that his agent served the Tenant in person with a One Month Notice on July 30, 2020 with an effective vacancy date of August 31, 2020. The Tenant confirmed having received the One Month Notice on the same date. The Landlord's reason for ending the tenancy on the One Month Notice is;

“Tenant knowingly gave false information to prospective tenant or purchaser of the rental unit.”

The Landlord stated that the rental property is currently listed for sale. The Landlord stated that during each showing, the Tenant has been present and has attempted to sabotage the sale of the home by notifying potential buyers of issues with the rental property. The Landlord stated that these issues are fabricated, and that the realtor has notified the Landlord that he will be unable to sell the rental property as a result of the Tenant's input during showings.

The Tenant's advocate responded by stating that the Tenant only received page 1 and 2 of the 3-page One Month Notice. The Landlord responding by stating that he was unsure how many pages were served to the Tenant. The Tenant's advocate stated that the Tenant was only answering questions posed to him by the inspectors that were present during the showings. The Tenant's advocate stated that the Tenant did not receive any warnings from the Landlord, only the two-page Notice to End Tenancy. I note that both parties provided a copy of the One Month Notice to End Tenancy.

Analysis

Based on the documentary evidence and oral testimony provided during the hearing, and on a balance of probabilities, I find:

According to Section 47 (1) of the Act, a landlord may end a tenancy by giving notice to end the tenancy for cause. In the matter before me, the Landlord has the burden of proof to prove that there is sufficient reason to end the tenancy.

The Landlord's agent served the Tenant in person with a One Month Notice dated on July 30, 2020 with an effective vacancy date of August 31, 2020. The Tenant confirmed having received only the first two pages of the notice on the same date. I find the One Month Notice was sufficiently served pursuant to Section 88 of the Act.

I note that Section 55 of the Act states that in order for a Landlord to be granted an order of possession, the Landlord's notice to end tenancy must comply with Section 52 of the Act relating to form and content.

Section 52 of the Act States; In order to be effective, a notice to end a tenancy must be in writing and must;

- (a) be signed and dated by the landlord or tenant giving the notice,*
- (b) give the address of the rental unit,*
- (c) state the effective date of the notice,*
- (d) except for a notice under section 45 (1) or (2) [tenant's notice], **state the grounds for ending the tenancy,***
 - (d.1) for a notice under section 45.1 [tenant's notice: family violence or long-term care], be accompanied by a statement made in accordance with section 45.2 [confirmation of eligibility], and*
- (e) **when given by a landlord, be in the approved form.***

The One Month Notice also contains a "Details of Cause" section which provides the Landlord and opportunity to outline the details surrounding the reason for Cause. This also provided the Tenant with an understanding as to why they are being served a Notice to End Tenancy. The details of cause section is found on page 3 of the One Month Notice. In this case, The Tenant stated that he did not received page 3 of the One Month Notice. The Landlord provided a copy of the One Month Notice which states in the details of cause;

“This is the 3rd page missing, sorry.”

I find that the Landlord has not provided any information which would support the One Month Notice being served. I find the One Month Notice does not comply with Section 52 of the *Act* as it does not contain any details of cause, nor am I satisfied that the Tenant was served page 3 of the One Month Notice. In light of the above, I cancel the One Month Notice, dated July 30, 2020. I order that the tenancy continue until ended in accordance with the *Act*.

Conclusion

The Tenant’s Application is successful. The One Month Notice issued by the Landlord dated July 30, 2020 is cancelled. The tenancy will continue until 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 *Residential Tenancy Act*.

Dated: September 14, 2020

Residential Tenancy Branch