



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

This hearing, held by teleconference at 11:00 am on September 14, 2020, dealt with the Tenant's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause pursuant to section 47 (the Notice).

The Tenants attended the teleconference hearing with their legal counsel; however, the Landlord did not attend. One of the Tenants testified that she personally served the Landlord's agent with the application package, and Notice of Hearing on August 13, 2020. The Tenant stated that there is an individual named D.G., who acts as the Landlord's agent. When asked to elaborate on this matter further, the Tenants stated that D.G. also lives in the building complex, and he helps the Landlord with taxes, paperwork, tenancy matters, and maintenance. The Tenants stated that they observed D.G. drop off the Notice to End Tenancy at their front door, so this is who they served with the Notice of Hearing.

I accept the Tenant's undisputed testimony that D.G. is an agent for the Landlord. I also accept the undisputed testimony that they personally gave D.G. the Notice of Hearing on August 13, 2020. Pursuant to section 89(1)(b), I find the Landlord was served on August 13, 2020, the same day it was provided to his agent, in person. I find the Tenants sufficiently served the Landlord (agent of) with the Notice of Hearing for the purposes of this application.

One of the Tenants, C.A., stated in the hearing that the Landlord had served her with a separate Notice of Hearing (file number provided to me by the Tenant during the hearing). The Tenant read that document and stated that it was for a hearing for today,

at a different time (9:30 am). The Tenants' lawyer was unaware the Tenants had a different Notice of Hearing with a different file number and a different hearing time. It appears the Tenants failed to disclose their receipt of the Landlord's Notice of Hearing to their legal counsel. Regardless, I reminded the parties that this is a separate, distinct hearing, scheduled at a distinctly different time, with different hearing access codes. As such, they would be decided independently, as the other hearing was conducted by a different arbitrator, at a different time. In this decision, I will only make findings that relate to the specific issue applied for on *this* application (regarding the 1-Month Notice to End Tenancy).

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.

Issue to be Decided

- Should the Notice be cancelled?

Background, Evidence, and Analysis

The Tenants stated that the Notice was left on their doorstep on June 28, 2020. One of the Tenants stated that although she did not find the Notice herself, someone she knows found it on her doorstep on June 28, 2020, and gave it to her that same day. One of the Tenants acknowledged getting the Notice on June 28, 2020, although they do not feel it was properly served.

A copy of the Notice was provided into evidence, and it lists several grounds for ending the tenancy.

In the matter before me, the Landlord who issued the Notice has the onus of proof to prove that the Notice is valid. I find that the Landlord was properly served with the Notice of Hearing and failed to attend the hearing to prove the allegation within the Notice.

Therefore, as the Landlord did not attend the hearing by 11:40 AM (after remaining on the line for 40 minutes) on September 14, 2020, I cancel the Notice, dated June 28, 2020.

This decision does not impact any other proceeding or hearing and this decision only relates to the Landlord's 1-Month Notice to End Tenancy.

Conclusion

The Tenants' application is successful. The Notice issued by the Landlord dated June 28, 2020, is cancelled.

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