



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, MT-CNC

Introduction

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

- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46;
- more time to make an application to cancel the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 66;
- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 47.

The landlord attended the hearing via conference call and provided undisputed affirmed testimony. The tenants did not attend or submit any documentary evidence.

The hearing was paused until 10 minutes past the start of the scheduled hearing time. At that time, the tenants were still not present. The landlord confirmed that she received the tenants notice of hearing package. As such, I find that the landlord is deemed served as per section 90 of the Act. The tenants' application was dismissed without leave to reapply. The hearing concluded after 38 minutes.

The landlord stated that she still wished to proceed and obtain an order of possession based upon the two notice(s).

A review of the tenants' entire application revealed that a copy of the 10 Day Notice and the 1 month notice in dispute was not provided. The landlord stated that she had submitted copies of both notice(s). The landlord was unable to provide the name of the document file which is the 10 Day Notice. The landlord's entire documentary evidence of 28 files was reviewed file by file, but a copy of the 10 Day Notice was not found.

Section 46 of the Act states that a landlord may end a tenancy if rent is unpaid on any day after the day it is due, by giving notice to end tenancy effective on a date that is not earlier than 10 Days after the date of the notice. However, the tenants application does not contain a copy of the notice in dispute. The landlord has also failed to provide a copy of the notice.

The landlord was notified that the notice to end tenancy is a crucial and vital document for both parties in a dispute resolution hearing. The Notice is not a trivial piece of information. It is the foundation that a landlord relies on to assist in her request to end a tenancy when there is cause. Despite the landlord offering to submit late evidence, I find that it would be grossly unfair to the tenants to allow the landlord in this circumstance to submit crucial evidence. The tenants are entitled to have full answer and defence of any allegation made against them as is required under the Natural Laws of Justice. I also find that pursuant to Ministerial Order No. M195, during the state of emergency, Part 2- Residential Tenancy Act Section 3 a landlord must not give a tenant a notice to end tenancy under section 46 of the Residential Tenancy Act. On this basis, the landlord's request for an order of possession is denied.

Section 47 of the Act states that a landlord may end a tenancy by giving notice to end tenancy for a number of reasons. On this request by the landlord, neither party has supplied a complete copy of the One Month Notice dated July 24, 2020. The landlord submitted copies of pages 1 and 3. An extensive review of each of the landlord's 28 documentary files did not reveal a copy of the 2nd page. As explained above, the Notice is not a trivial piece of information. It is the foundation that a landlord relies on to assist in their application to end a tenancy when there is cause. The tenants are entitled to have full answer and defence of any allegation made against them as is required under the Natural Laws of Justice. On this basis, the landlord's request is denied.

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 15, 2020

Residential Tenancy Branch