



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, RR, LRE, RP, LRE, OLC

Introduction

This hearing 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 (the 1 Month Notice) pursuant to section 47;
- authorization to change the locks to the rental unit pursuant to section 70;
- an order requiring the landlord to comply with the Act, regulation or tenancy agreement pursuant to section 62;
- an order to the landlord to make repairs to the rental unit pursuant to section 32;
- an order to allow the tenant(s) to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65;
- an order to suspend or set conditions on the landlord's right to enter the rental unit pursuant to section 70.

Both parties attended the hearing via conference call and provided affirmed testimony. Both parties confirmed the tenant served the landlord with the notice of hearing package via Canada Post Registered Mail. Both parties confirmed the tenant served the landlord with the submitted documentary evidence in person on September 11, 2020. Both parties confirmed the landlord served the tenant with the submitted documentary evidence via Canada Post Registered Mail on October 8, 2020. Neither party raised any service issues. I accept the undisputed affirmed evidence of both parties and find that both parties have been sufficiently served as per sections 88 and 89 of the Act.

Preliminary Issue(s)

At the outset, the tenant's application was clarified. The tenant applied for an order regarding the above noted requests. The tenant stated the requests for repairs to have

a lock on her door, reduction in rent of \$250.00 for not having a lock on her door despite requests, an order for the landlord to respect her rights were unrelated to the 1 month notice to end tenancy. Pursuant to Rules of Procedure 2.3, those issues as they are unrelated to the primary concern which is the notice to end tenancy are dismissed with leave to reapply. Leave to reapply is not an extension of any applicable limitation period.

The hearing shall proceed on the tenant's request to cancel the 1 month notice.

Issue(s) to be Decided

Is the tenant entitled to an order cancelling the 1 month notice?

Background, Evidence, Analysis and Conclusion

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

This tenancy began on October 1, 2019 on a month-to-month basis as per the submitted copy of a typed copy of a signed tenancy agreement dated October 1, 2019. The monthly rent is \$900.00 payable on the 1st day of each month. A security deposit of \$450.00 was paid.

Both parties confirmed that on August 31, 2020, the landlord served the tenant with the 1 Month Notice dated August 31, 2020 by posting it to the rental unit door. The 1 Month Notice sets out an effective end of tenancy date of September 30, 2020 and that it was being given as:

- the tenant or person permitted on the property by the tenant has:
 - significantly interfered with or unreasonably disturbed another occupant or the landlord;
 - seriously jeopardized the health or safety or lawful right of another occupant or the landlord;
- the tenant has engaged in illegal activity that has, or is likely to:
 - adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord.
 - Jeopardize a lawful right or interest of another occupant or the landlord.
- the tenant has not done required repairs of damage to the unit/site.

Both parties confirmed that the landlord did not provide the 3rd page of the 1 month notice dated August 31, 2020 which provides for the “details of cause” for the notice.

The landlord stated that she did not complete a 3rd page for the notice to end tenancy, nor did she serve a copy of the 3rd page to the tenant.

Residential Tenancy Act (RTA), Section 47 (3) states in part that,

A notice under this section must comply with section 52 [form and content of notice to end tenancy].

Section 52 of the RTA, states in part,

In order to be effective, a notice to end tenancy must be in writing and must,

- *Be signed and dated by the landlord or tenant giving the notice,*
- *Give the address date of the notice,*
- *State the effective date of the notice,*
- *Except for a notice under section 45(1) or (2) [tenant’s notice]. State the grounds for ending the tenancy,*
- *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*
- ***When given by a landlord, be in the approved form.***

Although not directly specified, the details of cause provided on the notice (RTB-33) provides a description which states,

*Include any dates, times, people or other information that says who, what, where and when caused the issue. **The RTB may cancel the notice if details are not described.** Attach separate sheet(s) if necessary (signed and numbered).*
[reproduced as written with emphasis]

In this case, despite the landlord’s best efforts who stated that she had downloaded the form, but that a 3rd page was not provided. The landlord acknowledged that there were 3 pages as indicated at the bottom of the 1st and 2nd pages of the 3 page document noted. I also find that despite the landlord providing the tenant as part of her evidence package a written response providing more details, the landlord failed to complete the RTB-33 form giving the “Details of Cause”. I find that this was unfair and contrary to the

laws of natural justice to the tenant to allow the tenant an opportunity to review and respond to the landlord's claims prior to filing an application for dispute. On this basis, the tenant's application to cancel the 1 month notice dated August 31, 2020 is granted. The notice is set aside and cancelled. The tenancy shall continue. The merits of the notice were not addressed.

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: October 19, 2020

Residential Tenancy Branch