



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNC, MNDCT, LRE, PSF, FFT

Introduction

The tenant sought an order cancelling a One Month Notice to End Tenancy for Cause ("Notice") under section 47 of the *Residential Tenancy Act* ("Act"). In addition, by way of amendment to his application, the tenant sought relief under sections 62, 67, and 70 of the Act. The tenant also sought recovery of the filing fee under section 72 of the Act.

The tenant filed an application for dispute resolution on September 25, 2020, and then filed an amendment on November 9, 2020. A hearing was held before me on November 27, 2020. The tenant and landlord attended the hearing and were given an opportunity to be heard, present affirmed testimony, and make submissions.

Preliminary Issue 1: Form and Content of Notice

The parties confirmed that the Notice, a copy of which was submitted into evidence by each party, was the Notice that the landlord had issued and which the tenant received.

At the bottom of the two-page Notice the version of the form is printed. The Notice is indicated to be form "#RTB – 33 (2007/07)". As explained to the landlord, this form has not been in use for several years and is not the current approved form.

A landlord may issue a one month notice to end tenancy for cause under [section 47](#) of the Act. Within this section there is the requirement that a "notice under this section must comply with section 52 [*form and content of notice to end tenancy*]."

Turning to [section 52](#) of the Act, there are four to five requirements that must be met when a landlord issues a notice to end a tenancy. The last of those requirements (section 52(e)) is that "a notice to end a tenancy must [. . .] when given by a landlord, be in the approved form." An approved form is the version that is currently available from the Residential Tenancy Branch at the time a landlord issues such a notice.

The approved One Month Notice to End a Tenancy for Cause form is available at www2.gov.bc.ca/gov/content/housing-tenancy/residential-tenancies/ending-a-tenancy/landlord-notice/one-month-notice.

In this case, I find that the Notice issued by the landlord does not comply with section 52 of the Act and is thus invalid and of no legal force or effect.

Preliminary Issue 2: Tenant's Amendment

As noted above, the tenant filed an amendment on November 9, 2020 in which he sought compensation (section 67 of the Act), an order for services or facilities (section 62 of the Act), and an order to suspend or restrict the landlord's right to enter the rental unit (section 70 of the Act).

The landlord testified that he only received the tenant's amendment documentation less than 14 days before the hearing, which is not in compliance with Rules 3.14 and 4.6 of the *Rules of Procedure*. Moreover, pursuant to Rule 2.3, I conclude that these amended claims are unrelated to the original application concerning a dispute of the Notice. Given these reasons for non-compliance and unrelatedness I dismiss the tenant's amended claims with leave to reapply.

Preliminary Issue 3: Recovery of Application Filing Fee

Section 72(1) of the Act permits an arbitrator to order payment of a fee under section 59(2)(c) by one party in a dispute to another party. A successful party is generally entitled to recovery of the filing fee. As the tenant was successful in his application such that the Notice is declared to be invalid and of no force or effect, I grant the tenant a \$100.00 award to recover the cost of the application filing fee.

Pursuant to section 72(2)(a) of the Act, I order the tenant to make a one-time deduction of \$100.00 from a future rent payment, in full consideration of the award.

Conclusion

I grant the tenant's application, in part, and declare the Notice to be invalid. It is of no force or effect and the tenancy shall continue until it is ended in accordance with the Act. Further, I grant the tenant's application for an award of \$100.00 for the filing fee.

I dismiss the tenant's amendments with leave to reapply.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under section 9.1(1) of the Act.

Dated: November 27, 2020

Residential Tenancy Branch