



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **CNC, MNDCT, RR, MNRT, RP, AS, LRE, LAT, OLC, PSF**

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;
- a monetary award for damages and loss pursuant to section 67;
- a reduction of rent for repairs, services or facilities agreed upon but not provided pursuant to section 65;
- a monetary award for emergency repairs pursuant to section 33;
- an order for repairs to be made to the unit pursuant to section 33;
- authorization to assign or sublet the suite 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;
- authorization to change the locks to the rental unit pursuant to section 70;
- an order that the landlord comply with the Act, regulations or tenancy agreement pursuant to section 62; and
- an order that the landlord provide services or facilities pursuant to section 70.

Both parties attended the hearing and were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The landlord was assisted by family members. The tenant DW attended, confirmed they spoke on behalf of both named applicants and was assisted by an advocate.

As both parties were present service was confirmed. The parties each confirmed receipt of the respective materials. While the parties made some submissions regarding the manner and date of service, they each testified that they were in receipt of

the materials. I find the parties were each served in accordance with sections 88 and 89 of the *Act* and were sufficiently served in accordance with section 71 of the *Act*.

Issue(s) to be Decided

Should the 1 Month Notice be cancelled? If not is the landlord entitled to an Order of Possession?

Are the tenants entitled to any of the other relief sought?

Background and Evidence

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 arguments are reproduced here. The principal aspects of the claim and my findings around each are set out below.

This periodic tenancy began in May, 2018. The current monthly rent is \$1,125.00 payable on the first of each month. There is no written tenancy agreement.

The parties claim that a 1 Month Notice to End Tenancy for Cause was issued on the tenant but neither party entered a copy into evidence. The landlord and their family members gave lengthy rambling testimony regarding the ongoing conflict with the tenant and submitted some written submissions regarding their behaviour as well as copies of correspondence between the parties.

The tenant testified that the landlord has harassed them and they believe the Notice to End the tenancy was issued as they did not accept a rent increase orally communicated by the landlord. The tenant said they were unaware of the basis of the other heads of claim and could not explain how or why a monetary amount of \$20,000.00 was calculated or sought.

Analysis

Pursuant to Residential Tenancy Rule of Procedure 6.6 the onus to prove their claim on a balance of probabilities lies with the applicant in most circumstances.

However, where a tenant applies to dispute a 1 Month Notice, the onus is on the landlord to prove, on a balance of probabilities, the grounds on which the Notice is based.

Neither party thought to enter a copy of the 1 Month Notice into evidence. While the landlord and their family members gave lengthy testimony regarding their complaints about the tenancy, the tenant's behaviour and their ongoing grievances that led to the issuance of a notice to end tenancy, in the absence of a proper Notice being submitted into documentary evidence I am unable to determine that any Notice exists or that it meets the form and content requirements of section 52 of the *Act*. I find that the landlord has not met their evidentiary burden. Accordingly, I allow the tenant's application to cancel the 1 Month Notice. This tenancy continues until ended in accordance with the *Act*.

The tenants have indicated on their application that they are seeking multiple remedies including a monetary award, an order for repairs and authorization to assign or sublet the tenancy. Effectively, the tenants have employed a scorched earth tactic checking off multiple claims despite having little submission or evidence in support of their claims. While they provided brief written submissions on their application for some of the claims, I find that there is a dearth of documentary evidence in support. Their own testimony confessed not understanding why some of the relief was being sought and being unable to explain or elaborate on the written submissions leads me to conclude that there is little basis for any of the other claims made by the tenants. Despite the capable efforts of their advocate the tenants have provided so little evidence or cogent testimony in support of their claims that I find they have not met their evidentiary onus. Consequently, I dismiss the balance of the tenants' application without leave to reapply.

Conclusion

The portion of the application seeking to cancel a 1 Month Notice is successful. This tenancy continued until ended in accordance with the *Act*.

The balance of the tenants' application is dismissed without 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 *Residential Tenancy Act*.

Dated: December 29, 2020

Residential Tenancy Branch