



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Code: CNC

Introduction

The tenant applied to cancel a One Month Notice to End Tenancy for Cause ("Notice") under section 47 of the *Residential Tenancy Act* ("Act"). The tenant and an assistant attended the hearing on January 14, 2021, which was held by teleconference. Neither landlord attended the hearing, which began at 11:00 AM and ended at 11:11 AM.

The tenant's assistant gave evidence that the Notice of Dispute Resolution Proceeding package was served on the landlords by way of registered mail on December 9, 2020. She further testified that the package was picked up and signed for, on December 16, 2020, by a gentleman ("A.C.") who "does tasks for the landlord." I am satisfied on this undisputed evidence that Mr. C. is an agent for the landlord for the purposes of section 89(1)(b) of the Act and further find that the landlords were served in compliance with section 89(1)(c) of the Act.

Preliminary Issue: Onus of Proof is on Landlords

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim.

Where a tenant applies to dispute a One Month Notice to End Tenancy for Cause the onus falls on the landlord to prove, on a balance of probabilities, the grounds on which the Notice was given. As the landlords failed to attend the hearing to prove the reasons why they issued the Notice, which was served on November 20, 2020 and a copy of which was submitted into evidence by the tenant, I thus find that the landlords have not met their onus. Consequently, I cancel the Notice effective immediately. The Notice is of no force or effect and the tenancy shall continue until ended in compliance with the Act.

Conclusion

I grant the tenant's application.

I HEREBY ORDER that the landlords' One Month Notice to End Tenancy for Cause, dated November 20, 2020, is cancelled effective immediately.

This decision is made on authority delegated to me under section 9.1(1) of the Act.

Dated: January 14, 2021

Residential Tenancy Branch