



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding JSR Ltd.
and [tenant name suppressed to protect privacy]

INTERIM DECISION

Dispute Codes CNC-MT, OLC

This hearing was convened in response to an application by the Tenants made November 25, 2020 pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order allowing more time to cancel a notice to end tenancy - Section 66;
2. An Order cancelling a notice to end tenancy - Section 47; and
3. An Order for the Landlord’s compliance - Section 62

The Parties were each given full opportunity under oath to be heard, to present evidence and to make submissions.

Preliminary Matters

Rule 2.3 of the Residential Tenancy Branch Rules of Procedure provides that claims made in an application must be related to each other and unrelated claims may be dismissed with or without leave to reapply. As the claim in relation to the Landlord’s compliance is not related to the matter of whether the tenancy will end, I dismiss this claim with leave to reapply.

The following are agreed or undisputed facts: the tenancy under written agreement started on June 1, 2020. Rent of \$1,400.00 is payable on the first day of each month. The Tenants were given a rental rebate of \$300.00 per month for June, July and August 2020 and thereafter the rent returned to \$1,400.00. On August 8, 2020 the previous landlord served the Tenants with a one month notice to end tenancy for cause (the “Notice”).

The Tenant states that upon serving the Notice the Landlord changed the effective date of the Notice from September 30, 2020 to October 31, 2020. The Landlord confirms the effective date of the Notice and confirms that no other notice was given to the Tenants after the Notice was served.

At the hearing there was some confusion over whether the Ministerial Order stopping the Landlord from issuing any notice to end tenancy was in effect at the time the Notice was served. The hearing was ended with direction to both Parties that the matter would be reconvened if the Notice was not stopped by the Ministerial Order.

This clarifies that on March 30, 2020 section 3(1) of Ministerial Order M089 provided as follows:

Despite sections 44 (1) (a) (ii) to (vi) and sections 46 to 49.1 of the Residential Tenancy Act or any other section of the Residential Tenancy Act, the Residential Tenancy Regulation or any term of a tenancy agreement, a landlord must not give a tenant a notice to end the tenancy during the period this order is in effect.

This further clarifies that on June 24, 2020 Ministerial Order M195 dated June 24, 2020 repealed the above order and notices to end tenancy for cause were allowed to be served except for reasons that include rental monies.

Given this consideration of the above orders I find that the Landlord could serve the Tenants with the Notice when done so. I therefore reconvene the hearing to determine whether the Tenant disputed the Notice within the required time, or is allowed to have an extension to November 25, 2020, the date of the Tenants' application, and if so whether the Notice is valid for its stated reason.

For the Parties benefit in the interim I set out the relevant sections to a claim for more time to dispute a notice to end tenancy for cause:

Section 47(4) of the Act provides that a tenant may dispute a notice to end tenancy for cause by making an application for dispute resolution within 10 days after the date the tenant receives the notice. Section 66 of the Act provides that, inter alia, the director may extend a time limit established by this Act only in exceptional circumstances, and the director must not extend the time limit to make an application for dispute resolution to dispute a notice to end a tenancy beyond the effective date of the notice.

Notices of the time and date of the reconvened hearing are included with this Interim Decision. Failure to attend the hearing at the scheduled time will result in a decision being made on the basis of any information before the Arbitrator and the evidence of the Party in attendance at the hearing. No further documentary evidence will be allowed for the reconvened hearing.

If either Party has any questions, they may contact an Information Officer at the RTB at:
Lower Mainland: 604 660 1020
Victoria: 250 387 1602
Elsewhere in B.C.: 1 800 665 8779

Conclusion

This matter is adjourned. This interim 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: February 18, 2021

Residential Tenancy Branch