



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, 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;
- an order requiring the landlord to comply with the Act, regulation or tenancy agreement pursuant to section 62.

Both parties attended the hearing via conference call and provided undisputed affirmed testimony. Both parties confirmed the tenants served the landlord in person with the notice of hearing package and the submitted documentary evidence via Canada Post Registered Mail on December 7, 2020. Both parties also confirmed the landlord served the tenants with her submitted documentary evidence in person on February 9, 2021. 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.

At the outset, the tenants' application was clarified. Besides the tenants' request to cancel the 1 month notice, the tenants seek an order for the landlord to comply with the Act, Regulations or Tenancy Agreement. The tenants clarified that the landlord is harassing the tenants with her texts and letters stating that a new tenancy agreement needs to be completed. The landlord confirmed that she has repeatedly asked the tenants to enter into a new month-to-month tenancy agreement due to missing information from the tenants' application for tenancy. The landlord confirmed that she was under the impression that a new tenancy agreement would resolve those issues. Both parties confirmed that an existing tenancy agreement was made on a month-to-month basis. The landlord's issues are related to missing/incorrect details from a tenant's application for tenancy. The landlord was notified that she cannot request a

new tenancy agreement in order to obtain missing/incorrect details to help her decide on whether to accept the tenants as her tenants. The landlord was notified that she had already accepted the tenants as per the signed tenancy agreement. On this basis, the issue was clarified to both parties and requires no further action.

Issue(s) to be Decided

Are the tenants entitled to an order cancelling the 1 month notice?

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 / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

This tenancy began on June 1, 2020 on a month-to-month basis as per the submitted copy of the signed tenancy agreement dated May 26, 2020. The monthly rent is \$1,000.00 payable on the 1st day of each month. A security deposit of \$500.00 was paid.

On November 25, 2020, the landlord served the tenant with the 1 Month Notice dated November 25, 2020 in person. The 1 Month Notice sets out an effective end of tenancy date of December 25, 2020 and that it was being given as:

The tenants stated that the landlord failed to provide the complete notice to end tenancy (specifically page 2) of the notice. The landlord stated that she only has page 1 and 3 of the RTB-33 form. Despite this the landlord stated that she would not have forgotten to fill out the second page of the notice. The landlord was unable to provide any details of what the second page was or any details that she would have provided on that page.

Analysis and Conclusion

In an application to cancel a 1 Month Notice, the landlord has the onus of proving on a balance of probabilities that at least one of the reasons set out in the notice is met.

Section 52 of the Act states regarding the form and content in part that,

Form and content of notice to end tenancy

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

- (a) be signed and dated by the landlord or tenant giving the notice,
- (b) give the address of the rental unit,
- (c) state the effective date of the notice,
- (d) except for a notice under section 45 (1) or (2) [tenant's notice], state the grounds for ending the tenancy,**
- (d.1) 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
- (e) when given by a landlord, be in the approved form.**

In this case, extensive discussions took place to resolve this dispute.

Section 63 of the Residential Tenancy Act provides that the parties may attempt to settle their dispute during a hearing. Pursuant to this provision, discussion between the two parties during the hearing led to a resolution. Specifically, it was agreed as follows:

Both parties agreed to mutually end the tenancy on May 31, 2021, at 1:00pm by which time the tenants will have vacated the rental unit.

The tenants agreed to cancel the application for dispute.

The landlords agreed to cancel the 1 month notice dated November 25, 2020.

Both parties agreed that the above noted particulars comprised a full and final settlement of all aspects of the dispute arising from their applications for dispute resolution.

The parties confirmed at the end of the hearing that this agreement was made on a voluntary basis and that the parties understood the nature of this full and final settlement of this matter.

In order to implement the above settlement reached between the parties, I issue an Order of Possession to be used by the landlord if the tenants fail to vacate the rental premises in accordance with their agreement by 1:00 pm on May 31, 2021. The landlord is provided with these orders in the above terms and the tenant(s) must be served with this Order in the event that the tenants do not vacate the premises by the time and date set out in their agreement. Should the tenants fail to comply with this

Order, the Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

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: February 18, 2021

Residential Tenancy Branch