



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the *Act*) for cancellation of the One Month Notice to End Tenancy for Cause, pursuant to section 47.

The landlords did not attend this hearing, although I left the teleconference hearing connection open until 9:40 a.m. in order to enable the landlords to call into this teleconference hearing scheduled for 9:30 a.m. The tenant and his support person attended the hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the tenant and his support person and I were the only ones who had called into this teleconference.

The tenant testified that he served the landlords with this application for dispute resolution via registered mail on December 21, 2020. A Canada Post registered mail receipt for same was entered into evidence. The tenant testified that he served the landlords at the landlords' address for service provided on the One Month Notice to End Tenancy for Cause (the "Notice") which is the subject of this hearing. The tenant testified that the landlords listed the tenant's address as their address for service, but the landlords do not live with the tenant but in a separate property which has not been disclosed to the tenant.

I find that the tenant is entitled to rely on the service address provided by the landlords on the Notice. If the landlords did not receive this application for dispute resolution, I find that the failure to provide their actual address is akin to service avoidance and that it was the landlords' responsibility to provide their correct address or frequently check the

address provided. I find that the landlords were deemed served with the tenant's application for dispute resolution on December 26, 2020, five days after it was served, in accordance with section 89 and 90 of the *Act*.

Rule 6.6 of the Residential Tenancy Branch Rules of Procedure states that 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.

In most circumstances this is the person making the application. However, in some situations the arbitrator may determine the onus of proof is on the other party. For example, the landlord must prove the reason they wish to end the tenancy when the tenant applies to cancel a Notice to End Tenancy.

The landlords did not attend or present any evidence. I find that the landlords have not proved, on a balance of probabilities, the reasons they wish to end the tenancy. As the landlords have failed to meet the standard of proof regarding the Notice, I find that the Notice dated December 1, 2020 is cancelled and of no force or effect.

Conclusion

The Notice dated December 1, 2020 is cancelled and of no force or effect.

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: March 11, 2021

Residential Tenancy Branch