



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, CNC

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

1. cancellation of the One Month Notice to End Tenancy for Cause, pursuant to section 47; and
2. cancellation of the 10 Day Notice to End Tenancy for Unpaid Rent, pursuant to section 46.

The landlord did not attend this hearing, although I left the teleconference hearing connection open until 9:41 a.m. in order to enable the landlord to call into this teleconference hearing scheduled for 9:30 a.m. The tenant attended the hearing and was 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 I were the only ones who had called into this teleconference.

The tenant testified that she served the landlord with this application for dispute resolution via registered mail on January 7, 2021 at the landlord's address for service provided on the One Month Notice to End Tenancy for Cause dated December 21, 2020 (the "One Month Notice"). The tenant provided the tracking number for the registered mailing in this hearing. The tracking number is on the cover page of this decision. I find that the tenant was entitled to rely on the landlord's address for service as found on the One Month Notice. I find that the landlord was deemed served with this application for dispute resolution on January 12, 2021, five days after its mailing in accordance with sections 88 and 90 of the *Act*.

The tenant testified that on this application for dispute resolution the tenant accidentally checked the box to cancel a 10 Day Notice to End Tenancy for Unpaid Rent; however, no such notice was served upon the tenant. Pursuant to the above testimony, I dismiss the tenant's application to cancel a 10 Day Notice to End Tenancy for Unpaid Rent, without leave to reapply.

Issue to be Decided

1. Is the tenant entitled to cancellation of the One Month Notice to End Tenancy for Cause, pursuant to section 47 of the *Act*?

Background and Evidence

The tenant testified that the landlord slipped the One Month Notice under her door and the tenant received it on December 22, 2020. The One Month Notice was entered into evidence and states the following reasons for ending the tenancy:

- Tenant or a person permitted on the property by the tenant has:
 - significantly interfered with or unreasonably disturbed another occupant or the landlord;
 - seriously jeopardized the health or safety or lawful right of another occupant or the landlord;
- Tenant or a person permitted on the property by the tenant has engaged in illegal activity that has, or is likely to:
 - damage the landlord's property;
 - adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant;
 - Jeopardize a lawful right or interest of another occupant or the landlord.

The tenant disputed all of the above listed reasons for ending this tenancy.

Analysis

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.

I find that the landlord, who did not attend this hearing, has not proved, on a balance of probabilities, that this tenancy should end for any of the reasons set out in the One Month Notice. The One Month Notice is therefore cancelled and of no force or effect.

Conclusion

The One Month Notice 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 25, 2021

Residential Tenancy Branch