



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

This hearing was convened as a result of the tenant's Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (Act). The tenant applied to cancel a 1 Month Notice to End Tenancy for Cause dated January 18, 2021 (1 Month Notice).

An advocate for the tenant, MN-S, (agent) described their role as an advocate but given the document signed by the tenant before me, I find MN-S is an agent for the tenant at the hearing. As a result, the agent and the landlord attended the teleconference hearing. The hearing process was explained to the parties and an opportunity was given to ask questions about the hearing process. Thereafter the parties gave affirmed testimony and were provided the opportunity to present their evidence orally and in documentary form prior to the hearing and make submissions to me. Words utilizing the singular shall also include the plural and vice versa where the context requires.

As both parties confirmed having received documentary evidence from the other party and that they had the opportunity to review that evidence prior to the hearing, I find the parties were sufficiently served in accordance with the Act.

Preliminary and Procedural Matters

The parties were informed at the start of the hearing that recording of the dispute resolution is prohibited under the Residential Tenancy Branch (RTB) Rules of Procedure (Rules) Rule 6.11. The parties were also informed that if any recording devices were being used, they were directed to immediately cease the recording of the hearing. In addition, the parties were informed that if any recording was surreptitiously made and used for any purpose, they will be referred to the RTB Compliance

Enforcement Unit for the purpose of an investigation under the Act. Neither party had any questions about my direction pursuant to RTB Rule 6.11.

Furthermore, the email addresses of the parties were confirmed at the outset of the hearing. The decision will be sent by email to both parties.

Issue to be Decided

- Should the 1 Month Notice to End Tenancy for Cause be set aside?

Background and Evidence

A copy of the tenancy agreement was submitted in evidence. A month to month tenancy began on April 15, 2020. Monthly rent of \$700.00 is due on the first day of each month.

On January 18, 2021, the agent confirmed the tenant received the 1 Month Notice with an effective vacancy date of February 28, 2021. The tenant disputed the 1 Month Notice on January 27, 2021, which is within the 10-day timeline provided for under the Act to dispute the 1 Month Notice. The landlord listed the following causes on the 1 Month Notice:

1. Tenant has engaged in illegal activity that has, or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord.
2. Tenant has engaged in illegal activity that has, or is likely to jeopardize a lawful right or interest of another occupant or the landlord.

The 1 Month Notice was an earlier version of the 1 Month Notice form from 2016 and states in the Details of Cause(s) section the following:

Other tenants have continually voiced their concerns to the landlord about tenant yelling at them and making threatening gestures towards them. This has been on-going since the tenant arrived. Tenants are willing to sign affidavits to this effect.

The landlord confirmed that they have not contact the police regarding the causes listed but stated that other tenants have contacted the police. The landlord confirmed that they were not aware of the tenant being arrested by the police for a criminal offence.

It was at this point that the landlord was advised that the Details of Cause(s) section of the 1 Month Notice also states “Include any dates, times, people or other information that says who, what, where and when caused the issue. The RTB may cancel the notice if details are not described. Attach separate sheet(s) if necessary (signed and numbered). The parties were also advised that I would be cancelling the notice as I found the 1 Month Notice Details of Cause(s) to be too vague to end this tenancy.

Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on the balance of probabilities, I find the following.

When a tenant disputes a 1 Month Notice on time, which the tenant did in this matter, the onus of proof reverts to the landlord to prove that the 1 Month Notice is valid and should be upheld. If the landlord fails to prove the 1Month Notice is valid, the 1 Month Notice will be cancelled.

As indicated above, I find the Details of Cause(s) listed by the landlord to be too vague for the tenant to properly rebut the 1 Month Notice. The Details of Cause(s) do not include date, times, or locations or set out the specific illegal activity that is being alleged. Therefore, I find that such a 1 Month Notice, without more specific details, is insufficient to end a tenancy. Therefore, I find it unnecessary to consider any further evidence related to the 1 Month Notice as I find the 1 Month Notice itself to be too vague to be valid when both causes relate to illegal activity.

As the landlord has failed to prove that the Notice was valid, **I set aside** the 1 Month Notice.

I ORDER that the tenancy continues until ended in accordance with the Act.

As the filing fee was waived, it is not granted.

Conclusion

The tenant’s application is successful.

The 1 Month Notice is cancelled as it is too vague to end a tenancy.

The landlord is reminded to use the current forms located on the RTB website at: <https://www2.gov.bc.ca/gov/content/housing-tenancy/residential-tenancies/forms>

This decision will be emailed to both parties.

The tenancy shall continue until ended in accordance with the Act.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: April 30, 2021

Residential Tenancy Branch