



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Raamco International Properties Canadian Limited and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC-MT

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution, made on March 23, 2021 (the "Application"). The Tenant applied for more time to extend the time limit established by the *Residential Tenancy Act* (the "Act") to make an Application for dispute resolution to obtain an order cancelling a One Month Notice to End Tenancy for Cause, dated March 11, 2021 (the "One Month Notice"), pursuant to the *Act*.

The Tenant, the Tenant's Advocate H.W., and the Landlord's Agent D.L. attended the hearing at the appointed date and time. The Tenant stated that he served the Application and documentary evidence to the Landlord on March 26, 2021 by Registered Mail. The Landlord's Agent confirmed receipt. As such I find that the above mentioned documents were sufficiently served to the Landlord pursuant to Sections 88 and 89 of the *Act*. The Landlord's Agent stated that the Landlord did not submit any documentary evidence in preparation for the hearing.

At the start of the hearing, the Tenant's Advocate requested an adjournment based on the fact that the Tenant has experienced poor health and that he has been in and out of hospital leading up to the hearing, and has not had sufficient time to prepare for the hearing. The Landlord's Agent denied the request to adjourn the hearing for a later date, stating that the One Month Notice was served on March 11, 2021 and that the Tenant has had sufficient time to prepare himself for the hearing.

Preliminary Matters

According to the Residential Tenancy Branch Rules of Procedure (the "Rule of Procedure") 7.9, without restricting the authority of the arbitrator to consider other

factors, the arbitrator will consider the following when allowing or disallowing a party's request for an adjournment:

- *the oral or written submissions of the parties;*
- *the likelihood of the adjournment resulting in a resolution;*
- *the degree to which the need for the adjournment arises out of the intentional actions or neglect of the party seeking the adjournment;*
- *whether the adjournment is required to provide a fair opportunity for a party to be heard; and*
- *the possible prejudice to each party.*

I find that the Tenant, after submitting his Application to the Residential Tenancy Branch on March 23, 2021 had ample opportunity to submit any evidence he felt was necessary in preparation for the hearing. I find that the Tenant managed to submit some documentary evidence to the Residential Tenancy Branch as well as a copy of that evidence to the Landlord on March 26, 2021. I find that the fact that the Tenant neglected to include all of his documentary evidence he intended to rely on at the time of the hearing does not merit an adjournment.

I note that Section 55 of the *Residential Tenancy Act (Act)* requires that when a tenant submits an Application for Dispute Resolution seeking to cancel a notice to end tenancy issued by a landlord I must consider if the landlord is entitled to an order of possession if the Application is dismissed and the landlord has issued a notice to end tenancy that is compliant with the *Act*.

I find that by permitting an adjournment to provide the Tenant with more time to submit more documentary evidence would be a prejudice to the Landlord as they may be entitled to an Order of Possession.

In accordance with the Rules of Procedure 7.11, I find that the Tenant's request for an adjournment is not granted and the hearing will proceed as scheduled.

The parties were given the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

1. Is the Tenant entitled to more time to allow the Application for Dispute Resolution, pursuant to Section 66 of the *Act*?
2. Is the Tenant entitled to an order cancelling One Month Notice, pursuant to Section 47 of the *Act*?
3. If the Tenant is not successful in cancelling the One Month Notice, is the Landlord entitled to an order of Possession, pursuant to Section 55 of the *Act*?

Background and Evidence

Both parties agreed that the tenancy began July 1, 2018. Currently, the Tenant is required to pay rent in the amount of \$980.00 which is due on the first day of each month. The parties agreed that the Tenant paid a security deposit in the amount of \$435.00 and a pet damage deposit in the amount of \$435.00, both of which are currently being held in trust by the Landlord. The Tenant continues to occupy the rental unit.

The Landlord's Agent stated that he served the One Month Notice dated March 11, 2021 to the Tenant by posting it to the Tenant's door on March 11, 2021. The One Month Notice has an effective date of April 30, 2021. The Landlord's Agent stated that the One Month Notice was served in relation to several concerns;

The Landlord's Agent stated that the Tenant had an unauthorized guest move into his rental unit. The Landlord's Agent stated that the Tenant's guest also brought their dog, which increased the amount of pets in the rental unit from 2 to 3 dogs. The Landlord's Agent stated that this contravenes the tenancy agreement between the parties. The Landlord's Agent also stated that there have been several noise complaints as the Tenant and their guest are heard arguing at times. Lastly, the Landlord's Agent stated that the 3 dogs have been acting aggressively toward other occupant and pets in the rental property. As such, the Landlord is seeking to end the tenancy.

The Tenant responded by stating that he was in the hospital during the time that he was served with the One Month Notice. The Tenant stated that he returned to his rental unit on March 15, 2021 at which point he received the One Month Notice and disputed the One Month Notice on March 23, 2021.

The Tenant responded by stating that he had not received any verbal or written warning from the Landlord. Furthermore, the Tenant stated that when he was approached by the Landlord's Agent regarding the Tenant's guest, the Tenant asked his guest to move out.

The Tenant provided rent receipts from his guest, demonstrating that she is living in a different accommodation. The Tenant stated that he suffers from poor health, and that he requires some assistance from time to time. The Tenant provided a letter from his worker in support. The Tenant stated that currently, he is the sole occupant of the rental unit, but admits that his guest attends from time to time to assist him which should be permitted.

Analysis

Based on the documentary evidence and oral testimony provided during the hearing, and on a balance of probabilities, I find:

According to Section 47 (1) of the Act, a landlord may end a tenancy by giving notice to end the tenancy for cause. In the matter before me, the Landlord has the burden of proof to prove that there is sufficient reason to end the tenancy.

The Landlord served the Tenant with a One Month Notice on March 11, 2021 with an effective vacancy date of April 30, 2021, by posting it on the door of the dispute address. I find the One Month Notice was sufficiently served pursuant to Section 88 of the Act. In accordance with Section 90 of the Act, the Tenant is deemed to have received the One Month Notice on March 14, 2021. The Tenant disputed the One Month Notice on March 23, 2021 which is within the 10 days permitted to dispute the One Month Notice. As such, I find the Tenant's request for more time to dispute the notice was not necessary.

In this case, I find that the Landlord has provided insufficient evidence that the tenancy agreement restricts additional occupants or additional pets. I find that the Landlord provided insufficient evidence to demonstrate that there were complaints from other occupants in the rental property, or that he discussed these issues with the Tenant to provide the Tenant an opportunity to correct the contraventions.

I find that the Tenant after receiving the One Month Notice, took reasonable action to remedy the situation once he learned that his actions were a contravention of the Act and the tenancy agreement. I am satisfied that the Tenant not longer has his guest or their dog living in the rental unit. The Tenant has indicated that his guest may return to the rental unit from time to time in order to assist the Tenant with his limitation due to poor health.

Section 30(1) of the Act states that a Landlord must not unreasonably restrict access to residential property by;

- (a) the tenant of a rental unit that is part of the residential property, or
- (b) a person permitted on the residential property by that tenant.

In light of the above, I cancel the One Month Notice, dated March 11, 2021. I order the tenancy to continue until ended in accordance with the Act.

The Tenant is cautioned that he is responsible for his guest and that if there are any further incidents of noise or aggressive dogs, that it may give the Landlord sufficient grounds to end the tenancy.

Conclusion

The Tenant's application is successful. The One Month Notice issued by the Landlord dated March 11, 2021 is cancelled. The tenancy will continue until ended in accordance with the Act.

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: July 09, 2021

Residential Tenancy Branch