



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL-4M, MT, FFT

Introduction

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

- cancellation of the landlord's 4 Month Notice to End Tenancy for Demolition, Renovation, or Conversion to Another Use;
- authorization to recover his filing fee for this application from the landlord pursuant to section 72.

Both parties attended the hearing via conference call and provided affirmed testimony.

Both parties were advised that the conference call hearing was scheduled for 60 minutes and pursuant to the Rules of Procedure, Rule 6.11 Recordings Prohibited that recording of this call is prohibited.

Both parties confirmed the tenant served the landlord with the notice of hearing package in person on March 18, 2021. Both parties also confirmed the tenant served the landlord with his submitted documentary evidence by placing it in the landlord's mailbox on June 6 and again on June 10, 2021. Both parties confirmed the landlord served the tenant with his submitted documentary evidence in person on June 17, 2021. Neither party raised any service issues. I accept the undisputed affirmed evidence of both parties and find that both parties are deemed sufficiently served as per section 90 of the Act.

Issue(s) to be Decided

Is the tenant entitled to more time to make an application for dispute and if so, an order cancelling the 4 month notice?

Is the tenant entitled to recovery of the filing fee?

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.

The tenant provided written details regarding his request for more time to make an application for dispute which states,

After giving me the notice they changed there minds and said I could stay. Then on March 18, 2021 they changed there minds again and said verbally that I had to be out by March 31, 2021.

[reproduced as written]

The landlord disputed this claim stating that at no time was the tenant notified that the 4 month notice was cancelled.

Extensive discussions took place with both parties in which both parties confirmed that the landlord served the tenant with page 1 of #RTB-29 (4 Month Notice to End Tenancy for Demolition, Renovation, Repair or Conversion of a Rental Unit, Form #RTB-29 revealed that the tenant had been served only page 1 of 4 of this notice along with page 2 of 3 of #RTB-33, a notice to end tenancy issued for cause.

The landlord clarified that he wanted to give the tenant 4 month notice instead of 1 month to end the tenancy for repeatedly paying rent late.

Analysis

Section 52 of the Act reads in part as follows:

- 52 **In order to be effective**, a notice to end 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, and
 - (e) **when given by a landlord, be in the approved form.**

In this case it is clear that the landlord used different portions of 2 different forms to serve to the tenant. Both parties were informed that the mixing and matching of forms was not allowed and that when used in the approved form the landlord must provide to the tenant copies of the entire form (ie. All pages of the form).

Since the landlords failed to identify an effective date for their notice and use the proper approved form, the landlords have not complied with the statutory requirement established under section 52 (c) and (e) of the Act, I find that the landlords' 4 Month Notice is of no effect. For these reasons, I allow the tenant's application to cancel the landlords' 4 Month Notice dated November 30, 2020.

The tenant is entitled to recovery of the \$100.00 filing fee.

Conclusion

The tenant's application to cancel the 4 month notice dated November 30, 2020 is granted. The 4 month notice is set aside and the tenancy shall continue. As the tenancy continues I authorize the tenant to withhold one-time \$100.00 from the next monthly rent due upon receipt of this decision to recover the filing fee.

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 05, 2021

Residential Tenancy Branch