



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, AAT, LRE, OLC

Introduction

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

- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 47;
- an order requiring the landlord to comply with the Act, regulation or tenancy agreement pursuant to section 62;
- an order to suspend or set conditions on the landlord's right to enter the rental unit pursuant to section 70;
- an order to allow access to or from the rental unit or site for the tenant or the tenant's guests pursuant to section 70.

The tenant, S.F-W. and his agent attended the hearing via conference call and provided affirmed testimony. The tenant, K.S. did not attend. The landlord, H.P. attended as agent for the other two named landlords 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 tenants served the landlords with the notice of hearing package via email on April 26, 2021. Both parties also confirmed the tenants served the landlord with their submitted documentary evidence via email. Both parties confirmed the landlords served the tenants with their submitted documentary evidence in person on May 29, 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 71 of the Act.

At the outset, the tenant's application was clarified. The tenant had requested:

- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 47;
- an order requiring the landlord to comply with the Act, regulation or tenancy agreement pursuant to section 62;
- an order to suspend or set conditions on the landlord's right to enter the rental unit pursuant to section 70;
- an order to allow access to or from the rental unit or site for the tenant or the tenant's guests pursuant to section 70.

The tenants stated that they were proceeding only on the request to cancel the 1 month notice. The tenants stated that an amendment to the application was filed with their evidence package cancelling these portions of their requests. Both parties were advised that filing an amendment within the evidence submissions was contrary to Residential Tenancy Branch Policy Guideline #23: Amending an Application for Dispute Resolution. However, the landlord consented to the tenants' application being amended to cancel these requests. The hearing shall proceed on the tenants' application to cancel the 1 month notice.

Further discussion revealed that the tenants failed to provide a copy of the 1 month notice in dispute. Discussion with the landlord also revealed that the landlord did not submit a copy of the 1 month notice. A file by file search of all evidence submissions from both parties resulted in confirming that no copy of the 1 month notice was submitted, however two copies of the first page of a 10 Day Notice dated April 2, 2021 were found.

Section 47 of the Act states in part that a landlord may end a tenancy by giving notice to end the tenancy for a number of reasons. In this case, neither party has supplied a copy of the 1 month notice. The notice is not a trivial piece of information. It is the foundation that a landlord relies onto assist in an application to end a tenancy for cause.

Further discussion resulted in both parties agreeing to the contents of a 1 month notice dated March 27, 2021. Both parties agreed that the effective end of tenancy date was April 30, 2021. At this time the landlord referred to two separate order(s) of possessions that the landlord has already received after filing an application for dispute. One order is dated May 21, 2021 and the other May 26, 2021. On this basis, the

landlord stated that he is cancelling the 1 month notice dated March 27, 2021. As a result the tenants' application to cancel the 1 month notice dated March 27, 2021 is successful and is cancelled.

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: August 20, 2021

Residential Tenancy Branch