



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Pryce Investments Ltd, Quay Pacific Property Management Ltd., Damin Ma and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNL

Introduction

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

- cancellation of the landlord's 2 Month Notice to End Tenancy for Landlord's Use of Property (the "2 Month Notice") pursuant to section 49.

The landlords did not attend this hearing which lasted approximately 15 minutes. The teleconference line remained open for the duration of the hearing and the Notice of Hearing was confirmed to contain the correct hearing information. The tenants attended with counsel and were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The tenants were made aware of Residential Tenancy Rule of Procedure 6.11 prohibiting recording dispute resolution hearings and they each testified that they were not making any recordings.

The tenants testified that they received a 2 Month Notice dated April 23, 2021 and filed their present application to dispute the notice on May 8, 2021. The tenants gave evidence that they served each of the named respondents with the hearing package by registered mail sent on May 20, 2021. The tenants submitted into evidence three valid Canada Post tracking receipts and Proofs of Service showing each package successful delivered on May 21, 2021 as evidence of service. Based on the undisputed evidence I find that the landlords are each deemed served with the tenant's hearing package on May 25, 2021 pursuant to sections 88, 89 and 90 of the *Act*.

Issue(s) to be Decided

Should the 2 Month Notice be cancelled? If not are the landlords entitled to an Order of Possession?

Background and Evidence

The tenants acknowledged receipt of the 2 Month Notice dated April 23, 2021 on or about April 26, 2021. The tenants testified that they filed an application for dispute resolution on May 8, 2021 and served it on each of the landlords by registered mail on May 20, 2021.

Analysis

Section 49(8)(a) of the *Act* provides that upon receipt of a notice to end tenancy for landlord's use of property the tenant may, within fifteen days, dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch.

I accept the undisputed evidence that the 2 Month Notice was received on April 26, 2021 and the tenants filed an application for dispute resolution on May 8, 2021. I find that the tenants were within the time limit provided by the *Act* to dispute the 2 Month Notice.

As set out in Residential Tenancy Rule of Procedure 6.6, when a tenant files an application to dispute a notice to end tenancy, the landlord bears the burden to prove the grounds for the 2 Month Notice.

Rule 7.4 provides that:

Evidence must be presented by the party who submitted it, or by the party's agent.

If a party or their agent does not attend the hearing to present evidence, any written submissions supplied may or may not be considered.

Because the landlords did not attend the hearing, I have not considered the documentary evidence submitted by the landlords. I find the landlords have failed to satisfy their burden of proof and I therefore allow the tenants' application to cancel the 2 Month Notice.

Conclusion

The tenant's application to cancel the 2 Month Notice is allowed. The Notice is of no continuing force or effect. This tenancy continues 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: September 16, 2021

Residential Tenancy Branch