



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes LRE, FFT
 CNC, LRE

Introduction

This hearing was convened by way of conference call concerning 2 applications made by the tenants. The first application seeks an order limiting or setting conditions on the landlord's right to enter the rental unit and to recover the filing fee from the landlord for the cost of the application. The second application seeks an order cancelling a notice to end the tenancy for cause and for an order limiting or setting conditions on the landlord's right to enter the rental unit.

One of the tenants attended the hearing with a person identified as a co-Power of Attorney (LV). The other co-Power of Attorney (CJ) also attended with Legal Counsel on behalf of the landlord. Both co-Power of Attorneys and Legal Counsel for the landlord and the tenant gave oral submissions.

Issue(s) to be Decided

The issue to be decided is:

- does 1 of the 2 co-Power of Attorneys unilaterally have authority to issue a notice to end the tenancy?

Background and Evidence

The parties agree that the landlord has named 2 people as co-Power of Attorney, being the landlord's daughter and the landlord's brother, and a copy has been provided as evidence for this hearing. It specifies, in part that:

4. MULTIPLE ATTORNEYS – There are two Attorneys appointed and the Attorneys must act together (jointly) for any transactions involving a value in excess of the sum of One Thousand (\$1,000.00) Dollars.

A copy of the tenancy agreement has also been provided for this hearing, which specifies a tenancy commencing on July 22, 2019 and continues on a periodic basis, being Bi-monthly, for rent in the amount of \$625.00 payable on the 1st and 15th days of each month. It is signed by the tenant and by the owner/landlord.

One of the co-Power of Attorneys (CJ) has issued a One Month Notice to End Tenancy for Cause, a copy of which has also been provided for this hearing. It is dated June 27, 2021 and contains an effective date of vacancy of July 31, 2021.

Legal Counsel for the co-Power of Attorney who issued the Notice (CJ) submits that the landlord is not any Power of Attorney, but the person who is the agent and who acts for the landlord for the purposes of the *Residential Tenancy Act*.

Further, the tenant did not serve the co-Power of Attorney who issued the Notice (CJ), but served the other co-Power of Attorney (LV), deliberately avoiding service on the co-Power or Attorney who issued the Notice. The person who issued the Notice should have been served, or each of them should have been served.

Further, each transaction in the tenancy agreement is \$625.00 in the tenancy agreement, which is less than \$1,000.00.

The other co-Power of Attorney (LV) has not agreed to end the tenancy and has not signed the One Month Notice to End Tenancy for Cause (the Notice).

He further submits that the other co-Power of Attorney (CJ) has no authority to unilaterally take action on the value of \$1,000.00 or more. He (LV) has been in touch constantly with the other co-Power of Attorney (CJ), who has acted unilaterally, and wants her to cease. No logical landlord activity has been taken at all by her, and the tenant pleaded for help.

Further, none of the landlord's evidentiary material has been provided to the co-Power of Attorney (LV).

The co-Power of Attorney (LV) also submits that the terms of rental payments are twice per month, which shows a logical intent that the amount of rent is \$1,250.00 per month.

The Notice given to the tenant is signed by "Power of Attorney," not co-Power of Attorney. He further submits that she had no cause and has no power to end the tenancy unilaterally.

The tenant submits that it was in his best interest to serve the co-Power of Attorney (LV) and not the co-Power of Attorney who issued the Notice (CJ), and she has filed false claims; being around her is against the best interests of the tenant, not in the best interest of the owner.

Analysis

In considering the submissions of the parties, I have reviewed the tenancy agreement and the Enduring Power of Attorney. I must also consider the intent of the landlord when the Enduring Power of Attorney was made.

If the tenancy were to end as a result of the One Month Notice to End Tenancy for Cause, the result will be a loss of more than \$1,000.00 for the landlord, which is not permitted under the terms of the Enduring Power of Attorney. Therefore, I find that the co-Power of Attorney who issued the Notice has no authority to do so without the consent and signature of the other co-Power of Attorney, and I cancel the Notice.

The hearing did not deal with the balance of the tenant's applications, and I dismiss them with leave to reapply.

Since the tenant has been successful with one of the applications, the tenant is also entitled to recovery of the \$100.00 filing fee, and I order that the tenant be permitted to reduce rent by that amount for a future rental payment as full recovery.

Conclusion

For the reasons set out above, the One Month Notice to End Tenancy for Cause dated June 27, 2021 is hereby cancelled and the tenancy continues.

I hereby order that the tenant be permitted to reduce rent for a future payment by \$100.00 as recovery of one of the filing fees.

The tenants applications for an order limiting or setting conditions on the landlord's right to enter the rental unit are hereby dismissed with leave to reapply.

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: October 14, 2021

Residential Tenancy Branch