



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PCPM Ltd as Agent for Pacific Cove Island
Proper and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with the tenant's application pursuant to section 47 of the *Residential Tenancy Act* (the "Act") for cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the "1 Month Notice").

The landlord 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 tenant attended and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

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

The tenant testified that they served the landlord with their notice of application and evidence by registered mail sent to the service address provided on the 1 Month Notice on August 14, 2021. The tenant submitted a valid Canada Post tracking receipt as evidence of service. Based on the evidence I find that the landlord is deemed served with the tenant's materials on August 19, 2021, five days after mailing, in accordance with sections 88, 89 and 90 of the Act.

Issue(s) to be Decided

Should the 1 Month Notice be cancelled?

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 arguments are reproduced here. The principal aspects of the claim and my findings around each are set out below.

The tenant provided undisputed evidence regarding the following facts. The tenant was served with a 1 Month Notice dated August 31, 2021 on July 26, 2021. A copy of the 1 Month Notice was submitted into evidence. This is the third notice to end tenancy that was served on the tenant. There have been two previous hearings disputing notices to end tenancy under the file numbers on the first page of this decision. The tenant filed their application to dispute the 1 Month Notice of August 31, 2021 on July 29, 2021.

The tenant served the landlord with their notice of application and evidence on August 14, 2021 after the notice was provided by the Branch on August 13, 2021.

Analysis

Section 47 of the *Act* provides that upon receipt of a notice to end tenancy for cause the tenant may, within ten days, dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. If the tenant files an application to dispute the notice, the landlord bears the burden to prove the grounds for the 1 Month Notice.

In the present case I accept the undisputed evidence of the tenant that they were served with a 1 Month Notice dated August 31, 2021 on or about July 26, 2021. The tenant filed their application to dispute the notice with the Branch on July 29, 2021. Therefore, I find the tenant was within their statutory timeline to dispute the notice.

I accept the tenant's evidence that he served the landlord by registered mail at the service address provided on the 1 Month Notice. I find that sending materials by registered mail to the service address is an acceptable method of service pursuant to sections 88 and 89 of the *Act*.

Because the landlord did not attend the hearing I find the landlord has failed to satisfy the burden of proof to show the grounds for the 1 Month Notice and I therefore allow the tenant's application to cancel the 1 Month Notice.

Conclusion

The tenant's application to cancel the 1 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: November 9, 2021

Residential Tenancy Branch