



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding GML Enterprises
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") to cancel 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 tenant attended with the assistance of an advocate and they were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The tenant and advocate 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 advocate testified that they served the landlord with the tenant's application and materials on July 23, 2021 by registered mail. The advocate provided a valid Canada Post tracking number as evidence of service. Based on the undisputed evidence I find the landlord is deemed served with the tenant's materials on July 28, 2021, five days after mailing, in accordance with sections 88, 89 and 90 of the Act. I note that as articulated in Residential Tenancy Policy Guideline 12 the refusal of a party to accept or pick up documents served by registered mail does not override the deeming provisions of the Act.

Issue(s) to be Decided

Should the 1 Month Notice be cancelled? If not is the landlord entitled to an Order of Possession?

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. They have been an occupant of the rental unit since 2004. The current monthly rent is \$375.00 payable on the first of each month. The tenant received a 1 Month Notice on July 6, 2021. The tenant filed their present application to dispute the notice on July 7, 2021.

Analysis

Section 47(4) 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.

In the matter before me the tenant received the 1 Month Notice on July 6, 2021 and filed their application for dispute resolution on July 7, 2021. Therefore, I find the tenant was within the statutory timeline to dispute the notice.

When a tenant files an application to dispute the notice, the landlord bears the burden to prove the grounds for the 1 Month Notice. As the landlord failed to attend the hearing and make any submissions I find that they have not met their evidentiary onus on a balance of probabilities to establish the basis for this notice.

Consequently, I allow the tenant's application to cancel the 1 Month Notice.

Conclusion

The 1 Month Notice of July 6, 2021 is cancelled and of no further 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 4, 2021

Residential Tenancy Branch