



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, OLC, AS

Introduction

Pursuant to section 58 of the Residential Tenancy Act (the Act), I was designated to hear an application regarding a tenancy. In this application for dispute resolution, the Tenant applied for:

- an order to cancel a one month notice to end tenancy for cause, dated July 14, 2021 (the One Month Notice);
- an order for the Landlord to comply with the Act, regulation, or tenancy agreement; and
- an order permitting them to assign or sublet, the Landlord's permission having been unreasonably withheld.

The Tenant attended the hearing; the Landlord did not. The Tenant was given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses; they were made aware of Residential Tenancy Branch Rule of Procedure 6.11 prohibiting recording dispute resolution hearings.

The Applicant testified they served their Notice of Dispute Resolution Proceeding and evidence on the Respondent in person on August 3, 2021. I find the Applicant served the Respondent in accordance with section 89 of the Act.

Preliminary Matters

Severing of Unrelated Issues

Residential Tenancy Branch Rule of Procedure 2.3 states:

2.3 Related issues Claims made in the application must be related to each other. Arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.

As they are not related to the central issue of whether the tenancy will continue, I dismissed the Tenant's application for an order for the landlord to comply with the Act, the regulation, or the tenancy agreement; and their application for an order permitting them to assign or sublet, the Landlord's permission having been unreasonably withheld.

These applications are dismissed with leave to reapply. The remainder of this decision will address the Tenant's application for an order to cancel the One Month Notice.

Non-attendance of Landlord

Residential Tenancy Branch Rule of Procedure 6.6 states:

6.6 The standard of proof and onus of proof

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed.

The onus to prove their case is on the person making the claim. In most circumstances this is the person making the application. However, in some situations the arbitrator may determine the onus of proof is on the other party. For example, the landlord must prove the reason they wish to end the tenancy when the tenant applies to cancel a Notice to End Tenancy.

However, the Landlord did not attend the hearing to prove the reason they wish to end the tenancy, and they did not submit documentary evidence in support of a Notice to End Tenancy.

The notice issued by the Landlord is a type-written letter dated July 14, 2021 and is not in the approved form as required under section 52 of the Act. Therefore, the type-written letter is ineffective to end the tenancy.

Conclusion

The Tenant's application to cancel a one month notice to end tenancy for cause is dismissed.

The tenancy will continue until it is 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 29, 2021

Residential Tenancy Branch