



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC-MT

Introduction

On October 6, 2021, the Tenant submitted an Application for Dispute Resolution filed under the *Residential Tenancy Act* (the “Act”) to cancel a One Month Notice to End Tenancy for Cause (the “Notice”) issued on October 1, 2021, and for more time to dispute the Notice. The matter was set for a conference call.

The Tenant, another occupant of the rental unit (the “Tenant”) and the Landlord attended the hearing and were each affirmed to be truthful in their testimony. The Landlord and Tenant were provided with the opportunity to present their evidence orally and in written and documentary form and to make submissions at the hearing. The parties testified that they exchanged the documentary evidence that I have before me. Both parties were advised of section 6.11 of the Residential Tenancy Branches Rules of Procedure, prohibiting the recording of these proceedings.

In a case where a tenant has applied to cancel a Notice, Rule 7.18 of the Residential Tenancy Branch Rules of Procedure requires the landlord to provide their evidence submission first, as the landlord has the burden of proving cause sufficient to terminate the tenancy for the reasons given on the Notice.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this decision.

Issues to be Decided

- Is the Tenant entitled to more time to file to dispute the Notice?
- Should the Notice issued on October 1, 2021, be cancelled?
- If not, is the Landlord entitled to an order of possession?

Preliminary Matter – The Notice

At the outset of these proceedings the parties were advised that only one page of the three-page Notice to end tenancy had been submitted into documentary evidence. Both the Landlord and the Tenant were advised that the Notice could not be cancelled or upheld without a copy of the complete three-page document being submitted into documentary evidence.

Both the Landlord and Tenant were asked to submit a copy of the Notice to the Residential Tenancy Branch no later than 5:00 p.m. on the date of these proceedings, November 16, 2021.

When this Arbitrator reviewed the file for this hearing on November 17, 2021, at 9:30 a.m., neither the Tenant nor the Landlord had submitted a copy of the Notice into documentary evidence. The Residential Tenancy Branch (RTB) communication notes were also reviewed by this Arbitrator, and it was noted that there were no notes from the RTB indicating that either party had attempted to contact the branch to express issues with submitting the required document.

As a copy of the full Notice has not been submitted into documentary evidence for these proceedings, I find that I am unable to make a legal determination regarding the validity of this Notice.

As it is the Applicant, the Tenant in this case, who has the responsibility to ensure that the required documents are submitted with their application, and the Applicant, the Tenant, was provided with additional time to submit the required documents to these proceedings, and they failed to do so, I find that I must dismiss the Tenant's application to dispute this Notice.

Conclusion

I dismiss the Tenant's Application for Dispute Resolution. I have not made any findings of fact or law with respect to the Application.

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 17, 2021

Residential Tenancy Branch