



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

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 Tenants applied for an order to cancel a One Month Notice to End Tenancy for Cause, dated November 1, 2021 (the One Month Notice).

The Tenants attended the hearing; the Landlord did not, though the teleconference was open for the duration of the 19-minute hearing. The Tenants were 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 Tenants testified they served their Notice of Dispute Resolution Proceeding on the Landlord in person on November 18, 2021. I find the Tenants served the Landlord in accordance with section 89 of the Act.

Preliminary Matters

Jurisdiction

As the Tenants' address was listed as the basement of the same address as the Landlord, in order to determine whether I had jurisdiction to hear the matter, I questioned the Tenants regarding the living arrangement. As the Tenants testified they have a separate unit with their own kitchen and bathroom, I found I had jurisdiction and so proceeded with the hearing.

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.

As the Landlord did not attend the hearing to prove the grounds on which the Notice was issued, I cancel the One Month Notice and find that the tenancy will continue until it is ended in accordance with the Act.

Conclusion

The Tenants' application is granted.

The One Month Notice is cancelled. 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: January 31, 2022

Residential Tenancy Branch