



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding WELBEC PROPERTIES LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC, MNDCT

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution filed by the Tenant on October 07, 2021 (the "Application"). The Tenant applied as follows:

- To dispute a One Month Notice to End Tenancy for Cause dated September 29, 2021 (the "Notice")
- For compensation for monetary loss or other money owed

M.G., the Advocate for the Tenant appeared at the hearing. The Tenant did not appear at the hearing. Nobody appeared at the hearing for the Landlord. I waited 10 minutes at the outset of the hearing to allow the Tenant and someone for the Landlord to call into the hearing; however, neither did.

M.G. confirmed they can act as agent for the Tenant and therefore I proceeded with the hearing. I explained the hearing process to M.G. I told M.G. they are not allowed to record the hearing pursuant to the Rules of Procedure (the "Rules"). M.G. provided affirmed testimony.

M.G. confirmed the correct Landlord name which is reflected in the style of cause.

Pursuant to rule 2.3 of the Rules, I told M.G. at the outset that I would consider the dispute of the Notice and dismiss the request for compensation for monetary loss or other money owed as it is not sufficiently related to the dispute of the Notice. The request for compensation for monetary loss or other money owed is dismissed with leave to re-apply. This decision does not extend any time limits set out in the *Residential Tenancy Act* (the "Act").

The Tenant submitted a copy of the Notice as evidence. The Landlord submitted evidence. I addressed service of the hearing package.

M.G. testified that they sent the hearing package to the Landlord at their place of business by registered mail on October 14, 2021. M.G. provided Tracking Number 009CA. I looked Tracking Number 009CA up on the Canada Post website which shows the package was delivered October 28, 2021. M.G. testified that they have been in contact with the Landlord about this matter and the Landlord is aware of the hearing.

Based on the undisputed testimony of M.G. and Canada Post website information, I find the Landlord was served with the hearing package in accordance with section 89(1)(c) of the *Act*. Based on the Canada Post website information, I find the Landlord received the hearing package October 28, 2021. I note that the Landlord submitted evidence for the hearing which supports that the Landlord received the hearing package. Further, I accept the undisputed testimony of M.G. that they have discussed this matter with the Landlord who is aware of the hearing. Based on the undisputed testimony of M.G. and Canada Post website information, I find the Tenant complied with rule 3.1 of the Rules in relation to the timing of service of the hearing package.

As I was satisfied of service of the hearing package, I proceeded with the hearing in the absence of the Landlord.

Issues to be Decided

1. Should the Notice be cancelled?

Background and Evidence

A written tenancy agreement was submitted as evidence. The tenancy started October 04, 2020 and was for a fixed term ending March 31, 2021. The tenancy then became a month-to-month tenancy. Rent is \$1,050.00 per month. The Tenant paid a \$525.00 security deposit.

The teleconference started at 9:30 a.m. and ended at 9:51 a.m. Nobody appeared for the Landlord during this time.

Analysis

Pursuant to rule 6.6 of the Rules, when a tenant disputes a notice to end tenancy, the landlord has the onus to prove the validity of the notice.

Rule 7.4 of the Rules states:

Evidence must be presented by the party who submitted it, or by the party's agent.

If a party or their agent does not attend the hearing to present evidence, any written submissions supplied may or may not be considered.

Here, the Tenant disputed the Notice and nobody appeared at the hearing for the Landlord. I decline to consider the Landlord's evidence when nobody appeared at the hearing to present it. In the circumstances, the Landlord has failed to prove the validity of the Notice and the Notice is cancelled. The tenancy will continue until ended in accordance with the *Act*.

Conclusion

The Notice is cancelled. The tenancy will continue 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 *Act*.

Dated: February 17, 2022

Residential Tenancy Branch