



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, OLC

Introduction

This hearing dealt with an Application for Dispute Resolution by the Applicant, filed on September 16, 2021 to cancel a One Month Notice to End Tenancy for Cause and to have the landlord comply with the Act.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and make submissions at the hearing. All parties confirmed under affirmation they were not recording this hearing.

The parties confirmed receipt of all evidence submissions and there were no disputes in relation to review of the evidence submissions.

In this case, I must decide whether this matter falls within my jurisdiction as the notice to end tenancy indicates that the Applicant is not a tenant under the Act.

The landlords testified that the Applicant was a roommate of the deceased tenant who passed away in July 2021. The landlords stated that they were at a previous hearing on April 23, 2019, and it was noted at that time that the Applicant was a roommate of the tenant. The landlord stated at the previous hearing the tenant's roommate the Applicant was to make an application for tenancy and then all parties had to make changes to the tenancy agreement to add the Applicant to the tenancy agreement; however, that was never done. The landlord stated that they have accepted occupancy rent only from the Applicant as they did not want to continue the tenancy, under the same terms as the tenant.

The landlord stated that they would consider entering into a new tenancy with the Applicant, at a reduce market rent and give the Applicant time to find a roommate as this is a 2-bedroom townhome.

The advocate for the tenant stated that a tenancy should be recognized because the Applicant did give the landlord an application for tenancy. The advocate stated that the Applicant was not added to the tenancy agreement. The advocate stated that since the Applicant has paid rent directly to the landlord since the tenant died that a tenancy was created. The advocate stated all receipts for use an occupancy were provided to the Applicant at the same time.

The landlord argued that they received money orders that did not say whom they were from and they were not deposit. The landlord stated they contacted the Residential Tenancy Branch, and they were informed if they accept rent from the Applicant to issue receipts for use and occupancy as they were not prepared to have the tenancy continue under the same terms as the tenant. The landlord stated they did not receive any application for tenancy from the Applicant.

During the hearing the parties came to a possible resolution, I have not written this as a settlement pursuant to section 63 of the Act, as the Applicant is an occupant under the Act, as no changes were made to the tenancy agreement before the tenant passed away. Further, the landlord issue receipts for use and occupancy to the Applicant not to create a tenancy and I note the money orders given do not set whom they are from or even the unit number.

The parties outlined a possible tenancy as follows:

- The Applicant will enter into a written tenancy agreement with the landlord which will start on April 1, 2022;
- The Applicant will pay occupancy rent for March 2022, in the amount of \$750.88;
- The agreement will require the Applicant to pay \$1,450.00 per month and an occupancy rent for a roommate of \$150.00, who must be preapproved by the landlord;
- A security deposit of \$725.00 and a pet damage deposit of \$725.00 will be required to be paid, which will be payable in payments, to be determined;
- The dog "Korky" has been pre-approved, which is a 10lb dash hound chihuahua, no other pets are permitted without the consent of the landlord;

- No smoking in the rental unit. Smoking is permitted at the far end of the rental unit patio area;
- The unauthorized shed it to be removed;
- All standard term of the landlord current agreements will apply which includes a crime free addendum.

Should the Applicant enter into a tenancy agreement with the landlord then they will have full rights under the Act as a tenant.

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: February 03, 2022

Residential Tenancy Branch