



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC-MT, CNL-MT

Introduction

Pursuant to section 58 of the *Residential Tenancy Act* (the Act), I was designated to hear an application regarding a residential tenancy dispute. On November 17, 2021, the Tenants applied for:

- an order to cancel a One Month Notice to End Tenancy for Cause dated September 15, 2021 (the One Month Notice), noting that they needed more time to apply to dispute the Notice; and
- and order to cancel a Two Month Notice for Landlord's Use of Property dated May 22, 2021 (the Two Month Notice), noting that they needed more time to apply to dispute the Notice.

Those present were given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses; they were also made aware of Residential Tenancy Branch Rule of Procedure 6.11 prohibiting recording dispute resolution hearings.

The Tenant testified she served the Notice of Dispute Resolution Proceeding (NDRP) and their evidence on the Landlord in person, on or around November 19, 2021, and the Landlord confirmed she received the documents. I find the Tenant served the Landlord in accordance with section 89 of the Act, and deem the documents received by the Landlord on November 19, 2021.

The Landlord did not serve responsive evidence on the Tenants.

Issues to be Decided

- 1) Are the Tenants entitled to more time to dispute the One Month Notice?
- 2) Are the Tenants entitled to an order cancelling the One Month Notice? And if not, is the Landlord entitled to an order of possession?
- 3) Are the Tenants entitled to more time to dispute the Two Month Notice?
- 4) Are the Tenants entitled to an order cancelling the Two Month Notice? And if not, is the Landlord entitled to an order of possession?

Background and Evidence

Those present agreed on the following particulars of the tenancy. It began around April 1, 2006; the current Landlord acquired the property in 2015; rent is \$500.00, due on the first of the month; and the Tenants paid a security deposit of \$250.00 which the Landlord still holds.

A copy of the Two Month Notice was submitted as evidence. The Landlord testified that the Two Month Notice was served on the Tenants in person on May 22, 2021, which the Tenant confirmed.

The Two Month Notice is signed and dated by the Landlord, gives the address of the rental unit, states the effective date, states the reason for the notice, and is in the approved form. The Two Month Notice indicates the tenancy is ending as the rental unit will be occupied by the Landlord or the Landlord's spouse.

A copy of the One Month Notice was submitted as evidence. The Landlord testified that the One Month Notice was served on the Tenants in person on September 15, 2021, which the Tenant confirmed.

The One Month Notice is signed and dated by the Landlord, gives the address of the rental unit, states the effective date, and is in the approved form. There is no reason selected for the One Month Notice on page 2 of the Notice. The Details of the Event(s) section states: "60 day notice issued and than [sic] extended due to potential buyer. But landlord will be moving in [sic]unit."

I advised those present that as the One Month Notice does not state the grounds for ending the Tenancy, it is ineffective and without force. I find the One Month Notice does not comply with the content requirements of section 52 of the Act, is therefore without effect or force, and is cancelled.

The Landlord testified she was going to move her family into the rental unit as the house she had been renting was sold, and she needs a place for her family. The Landlord testified that she has been “given notice” by the new owner, and must move out.

The Tenant testified they need more time to dispute the Two Month Notice because they have a seven-year-old child who is homeschooled, and because due to a scarcity of housing in the area, the Tenants will become homeless if they are evicted. The Tenant testified they are on a housing waitlist, but need more time to plan out where to live.

The Landlord testified that “the housing department” was in touch with her, and that the Tenant had been offered accommodation for December 15, 2021.

Analysis

Based on the testimony of those present, I find the Landlord served the Tenants the Two Month Notice on May 22, 2021, in accordance with section 88 of the Act, and that the Tenants received it on the same day.

As it is signed and dated by the Landlord, gives the address of the rental unit, states the effective date, states the reason for the notice, and is in the approved form, I find the Two Month Notice meets the form and content requirements of section 52 of the Act.

The Tenant testified that they are on a housing waitlist, need more time to plan where to live, and that they will be homeless if evicted. My decision regarding whether the Tenants are entitled to more time to dispute the Two Month Notice must be governed by the Act, which at section 66 states:

Director's orders: changing time limits

66 (1) The director may extend a time limit established by this Act only in exceptional circumstances, other than as provided by section 59 (3) *[starting proceedings]* or 81 (4) *[decision on application for review]*.

The Residential Tenancy Branch [Policy Guideline 36, Extending a Time Period](#), provides guidance on the Act's intention regarding “exceptional circumstances”; it states: “The word ‘exceptional’ implies that the reason for failing to do something at the time required is very strong and compelling.” As an example of what might be

considered an exceptional circumstance, the guideline cites a situation in which the party was in the hospital at all material times, stating:

The evidence which could be presented to show the party could not meet the time limit due to being in the hospital could be a letter, on hospital letterhead, stating the dates during which the party was hospitalized and indicating that the party's condition prevented their contacting another person to act on their behalf.

Considering the Act and the Policy Guideline, and the fact that the Tenants have submitted no testimony or documentary evidence to demonstrate that their need for more time to dispute One Month Notice arises from exceptional circumstances, such as hospitalization and an inability to contact another person to act on their behalf, I must determine that the reasons provided by the Tenant are not sufficient to meet the high bar required. I therefore cannot grant the Tenants more time to apply to dispute the Two Month Notice.

As the Two Month Notice was received by the Tenants on May 22, 2021, the deadline to dispute it was 15 days later: June 6, 2021. However, the Tenants applied to dispute the Two Month Notice on November 17, 2021. Therefore, in accordance with section 49(9) of the Act, the Tenants are conclusively presumed to have accepted that the tenancy ended on July 31, 2021, the effective date of the Notice, and the Landlord is entitled to an order of possession.

Conclusion

The Tenants' application is dismissed.

The tenancy will end March 31, 2022 at 1:00 p.m.

The Landlord is granted an order of possession which will be effective March 31, 2022 at 1:00 p.m.

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: March 07, 2022

Residential Tenancy Branch