



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with an application by the tenant under the *Residential Tenancy Act* (the *Act*) for the following:

- Cancellation of One Month Notice to End Tenancy for Cause (“One Month Notice”) pursuant to section 47;

AM attended for both tenants with the advocate NH (“the tenant”). The email address to which this Decision shall be sent was confirmed. The tenant was given the opportunity to make submissions as well as present affirmed testimony and written evidence. The hearing process was explained, and an opportunity was given to ask questions about the hearing process.

The landlord did not appear at the hearing. I kept the teleconference line open from the scheduled time for the hearing for an additional 11 minutes to allow the landlord the opportunity to call. The teleconference system indicated only the tenant and I had called into the hearing. I confirmed the correct call-in number and participant code for the landlord had been provided.

The tenant’s advocate NA provided affirmed testimony that they personally sent the landlord the Notice of Hearing and Application for Dispute Resolution on December 9, 2021 by registered mail. The advocate provided the tracking number.

I accept the uncontradicted affirmed testimony of the advocate and find the tenant served the landlord with the documents as required by section 89 of the *Act*.

1. Preliminary Issue

I explained to the tenant that section 55 of the *Act* requires that when a tenant applies for Dispute Resolution seeking to cancel a notice to end tenancy issued by a landlord, I

must consider if the landlord is entitled to an order of possession if the tenant's Application is dismissed and the landlord has issued a notice to end tenancy that is compliant with the Act.

Further to this, the standard of proof in a dispute resolution hearing is on a balance of probabilities. Usually, the onus to prove the case is on the person making the claim.

However, in situations such as in the current matter, where the tenant has applied to cancel a landlord's One Month Notice, I explained that the onus to prove the reasons for ending the tenancy transfers to the landlord as the landlord issued the Notice and seeks to end the tenancy.

As the landlord did not attend and as I have found the landlord was served with the Notice of Hearing and Application for Dispute Resolution, I find the landlord submitted no evidence admissible under the Act and Rules of Procedure.

As no evidence was submitted on behalf of the landlord, I order that the tenant's application to cancel the Notice to End Tenancy is granted. I order that the tenancy shall continue until ended in accordance with the agreement and the Act.

Conclusion

I order that the tenant's application to cancel the One Month Notice to End Tenancy is granted. I order that the tenancy shall continue until ended in accordance with the agreement and 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: March 24, 2022

Residential Tenancy Branch