



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, MNDC, OLC

Introduction

This hearing dealt with the tenants' application for dispute resolution seeking remedy under the Residential Tenancy Act (Act) for:

- an order cancelling the One Month Notice to End Tenancy for Cause (1 Month Notice) issued by the landlord;
- compensation for a monetary loss or other money owed; and
- an order requiring the landlord to comply with the Act, regulations, or tenancy agreement.

The tenants attended the hearing; however, the landlord did not attend.

The tenants were informed prior to the start of the hearing that recordings of Residential Tenancy Branch (RTB) hearings are prohibited. Recording of the hearing is in violation of the RTB Rules of Procedure (Rules), and subject to investigation by the RTB Compliance and Enforcement should it come to light that the recording was made.

As the landlord was not present, service of the tenants' Application for Dispute Resolution, evidence, and Notice of Hearing (application package) was considered.

The evidence was that the listed landlord was an agent of the owner, who is a resident building manager. The landlord listed on the written tenancy agreement, filed by the tenants, showed a property management realty company. The tenants said that property management company was no longer involved with the tenancy. The tenants said they could not find out the name of the owner of the residential property, and as a result, served the landlord named on the style of cause page. The tenants submitted that the named landlord was the only person they have dealt with during this tenancy

and this landlord also served them with the Notice. The address for the landlord on the Notice was the address used by the tenants for service of the application package.

The tenants submitted they served the landlord their application package by registered mail on or about December 8, 2021. The tenants submitted a copy of the Canada Post registered mail receipt showing the tracking number. Additionally, the tenants submitted a copy of the tracking history, showing the registered mail was uncollected and returned to them.

Based on these submissions, I find the landlord was served notice of this hearing and the tenants' application in a manner complying with section 89(1) of the Act. The hearing proceeded in the landlord's absence.

The tenants were provided the opportunity to present their evidence relevant to the Notice orally and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the Rules. However, only the evidence relevant to the issue and findings in this matter are described in this Decision.

Words utilizing the singular shall also include the plural and vice versa where the context requires.

Procedural Matters-

Rule 2.3 authorizes me to dismiss with or without leave to reapply unrelated disputes contained in a single application. In this circumstance the tenants indicated several matters of dispute on the application, the most urgent of which is the application to cancel the 1 Month Notice. I find that not all the claims on the application are sufficiently related to be determined during this proceeding. I will, therefore, only consider the tenants' request to cancel the 1 Month Notice. The balance of the tenants' application is dismissed, with leave to re-apply.

I informed the tenants of this decision at the hearing. Despite this, I note the tenants continued to speak about their other issues, which were severed.

Leave to reapply is not an extension of any applicable time limit.

Issue(s) to be Decided

Are the tenants entitled to an order cancelling the landlord's 1 Month Notice?

Background and Evidence

Filed in evidence was a written tenancy agreement showing a tenancy start date of April 1, 2021, a fixed term through March 31, 2022, monthly rent of \$1,950, due on the 1st day of the month, and a security deposit of \$975 being paid by the tenants to the landlord. The written tenancy agreement shows the tenancy would continue after the date of the fixed term, on a month-to-month basis. The parking fee was \$50 and other fees were \$25.

The tenants submitted that the landlord served the 1 Month Notice by posting it on the door, on November 25, 2021. The move-out date listed on the 1 Month Notice was December 31, 2021. Filed in evidence was a copy of the 1 Month Notice.

The tenants filed their application in dispute of the 1 Month Notice Notice on December 3, 2021.

The 1 Month Notice listed as reason that the tenant knowingly gave false information to prospective tenants or purchaser of the rental unit or property.

The tenants denied giving any information that was false.

Analysis

In a case where a tenant has applied to cancel a Notice to end a tenancy, Rule 7.18 of the Rules states the landlord has the burden of providing sufficient evidence to terminate the tenancy for the reason given on the Notice.

In this case, the 1 Month Notice was issued pursuant to section 47(1)(j) and I find that the tenants disputed the 1 Month Notice within the timeframe required under the Act.

In the absence of, or any evidence from, the landlord to support the reason listed on the notice to end tenancy, I find that it must be set aside.

I further find that the tenants provided sufficient evidence that they did not knowingly give false information about the rental unit or residential property to prospective tenants or purchaser of the residential property.

As a result of the above, I therefore **ORDER** that the 1 Month Notice dated November 25, 2021, is **cancelled**, with the effect that the tenancy continues until it may otherwise legally end under the Act.

Conclusion

The tenants' application seeking cancellation of the landlord's 1 Month Notice is granted.

The tenants' request for monetary compensation from the landlord and an order requiring the landlord to comply with the Act, regulations, or tenancy agreement was dismissed, with leave to reapply.

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*. Pursuant to section 77 of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: March 21, 2022

Residential Tenancy Branch