



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC-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 19, 2021, the Tenant applied for:

- an order to cancel a One Month Notice to End Tenancy for Cause, dated October 30, 2021 (the One Month Notice), noting that he 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 that he served the Notice of Dispute Resolution Proceeding (NDRP) on the Landlord by registered mail on November 23, 2021, and the Landlord confirmed she received the documents. The Tenant testified he did not serve any evidence on the Landlord. I find the Tenant served the Landlord in accordance with section 89 of the Act.

The Landlord testified that she served her responsive evidence on the Tenant in person on March 1, 2022, and the Tenant confirmed he received it. I find the Landlord served the Tenant in accordance with section 88 of the Act.

Issues to be Decided

- 1) Is the Tenant entitled to more time to dispute the One Month Notice?
- 2) Is the Tenant entitled to an order cancelling the One 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 April 1, 2016; rent is \$705.00, due on the first of the month; and the Tenant paid a security deposit of \$310.00 and a pet deposit of \$310.00, which the Landlord still holds.

A copy of the One Month Notice was submitted as evidence. The Landlord testified that the One Month Notice was served on the Tenant by attaching it to the door on November 1, 2021. The Tenant testified he received the One Month Notice on November 8, 2021.

The One Month Notice is signed and dated by the Landlord, gives the address of the rental unit, states the effective date, states the grounds for ending the tenancy, and is in the approved form. The One Month Notice indicates the following reasons for ending the tenancy:

- the Tenant has allowed an unreasonable number of occupants in the unit;
- the Tenant is repeatedly late paying rent;
- the Tenant or a person permitted on the property by the Tenant has:
 - significantly interfered with or unreasonably disturbed another occupant or the Landlord;
 - put the Landlord's property at significant risk;
- the Tenant or a person permitted on the property by the tenant has engaged in illegal activity that has, or is likely to damage the landlord's property;
- the Tenant or a person permitted on the property by the Tenant has engaged in illegal activity that has, or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the Landlord; and
- the Tenant or a person permitted on the property by the Tenant has caused extraordinary damage to the unit.

The Landlord testified that the primary reason for ending the tenancy is because the Tenant is frequently late with rent; the Landlord submitted as evidence a copy of the tenant ledger.

The Landlord provided testimony regarding the other reasons indicated on the One Month Notice, including that the Tenant has had someone staying with him, despite the tenancy agreement addendum forbidding it; the Landlord provided a copy of the tenancy agreement in support.

The Landlord also testified that it appears the Tenant's visitors are engaged in drug dealing, and that the police are observing the building and have contacted the Landlord to warn her that one of the Tenant's visitors is a "high-level drug dealer" and should not be approached. The Landlord testified there is a constant stream of visitors in and out of the Tenant's unit, that the Tenant's visitors have damaged the building, and that she has witnessed excessive noise from the Tenant's unit. The Landlord provided documentation in support.

The Tenant testified that he requires more time to dispute the One Month Notice as he was ill with COVID from approximately October 5, 2021 to November 10, 2021, and that part way through his illness, he could not walk for ten days due to his foot being affected by arthritis and being split open and bleeding.

The Tenant testified that after receiving the One Month Notice, he contacted an advocacy group on or around November 15, 2021 for advice and assistance, but that it was about a week before an advocate got back to him. The Tenant also testified that he needs more time to dispute the Notice so as to collect evidence from a caregiver.

The Tenant testified that his rent is paid out of his disability cheque by "social services," and that though he has repeatedly asked social services to increase the amount of rent paid, they are not making full rent payments on the Tenant's behalf. The Tenant testified that the police visited him once to ask a follow up question after the Tenant's purchase of a vehicle, and once to ask if the Tenant had seen a particular person. The Tenant testified that a person who visits him is bringing him marijuana, which is legal, and that other people are visiting him to obtain some. The Tenant testified that there has been no damage done to the building, and no yelling or screaming from his visitors, and that there has been no illegal activity, including no drug dealing.

Analysis

Based on the testimony of those present, I find the Landlord served the Tenant the One Month Notice on November 1, 2021 by attaching it to the door, in accordance with section 88 of the Act, and I deem it received by the Tenant on November 4, 2021, in accordance with section 90 of the Act.

As the One 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, I find the One Month Notice meets the form and content requirements of section 52 of the Act.

The Tenant has applied for more time to dispute the One Month Notice, testifying that he was ill with COVID from approximately October 5, 2021 to November 10, 2021, and that part way through his illness, he could not walk for ten days due to foot problems.

The Tenant testified that after receiving the One Month Notice, he contacted an advocacy group on or around November 15, 2021 for advice and assistance, but that it was about a week before an advocate got back to him, and that he also needs more time to obtain evidence from a caregiver.

My decision regarding whether the Tenant is entitled to more time to dispute the One 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 Tenant has submitted no testimony or documentary evidence to demonstrate that his need for more time to dispute the 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 Tenant more time to apply to dispute the One Month Notice.

The One Month Notice is deemed received by the Tenant on November 4, 2021. So, in accordance with section 47(4) of the Act, the deadline to dispute it was 10 days later: November 14, 2021. However, the Tenant applied to dispute the One Month Notice on November 19, 2021. Therefore, in accordance with section 47(5) of the Act, the Tenant is conclusively presumed to have accepted that the tenancy ended on November 30, 2021, the effective date of the Notice, and the Landlord is entitled to an order of possession.

Conclusion

The Tenant's 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 11, 2022

Residential Tenancy Branch