



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, OLC, FFT

Introduction

This hearing was convened by way of conference call concerning an application made by the tenants seeking an order cancelling a notice to end the tenancy for cause; an order that the landlord comply with the *Residential Tenancy Act*, regulation or tenancy agreement; and to recover the filing fee from the landlord for the cost of the application.

One of the tenants and the landlord attended the hearing, and the landlord gave affirmed testimony. The parties also agree that all evidence has been exchanged.

Issue(s) to be Decided

- Has the landlord established that the One Month Notice to End Tenancy for Cause dated November 22, 2021 was issued in accordance with the *Residential Tenancy Act*?
- Have the tenants established that the landlord should be ordered to comply with the *Act*, regulation or tenancy agreement?

Background and Evidence

The landlord testified that this month-to-month tenancy began on August 1, 2019 and the tenants still reside in the rental unit. Rent in the amount of \$800.00 is payable on the 1st day of each month and there are no rental arrears. On August 1, 2019 the landlord collected a security deposit from the tenants in the amount of \$400.00 which is still held in trust by the landlord, and no pet damage deposit was collected. A copy of the tenancy agreement has been provided by the tenants for this hearing. The landlord

testified that the rental unit is a suite in a 4-plex, all of which are owned by the landlord and all are rented; the landlord does not reside on the property.

The landlord testified that the parties participated in a hearing on November 16, 2021 concerning an application made by the landlord seeking an Order of Possession. The landlord had not filled in the Details of Cause(s) section of the One Month Notice to End Tenancy for Cause that had been previously served, so the Arbitrator dismissed the landlord's application. The landlord then issued another.

The landlord further testified that on November 22, 2021 the landlord personally served the tenant who attended this hearing with a One Month Notice to End Tenancy for Cause. The tenants have provided a copy and it is dated November 22, 2021 and contains an effective date of vacancy of December 31, 2021. The reason for issuing it states:

- Tenant or a person permitted on the property by the tenant has:
 - significantly interfered with or unreasonably disturbed another occupant or the landlord.

The tenants have provided another copy of a One Month Notice to End Tenancy for Cause dated November 22, 2021 and containing an effective date of vacancy of December 31, 2021, which differs from the previous Notice in the Details of Cause(s) section. When asked if the landlord had tacked one to the door in February, 2022 which had an Addendum taped over it, the landlord testified that he recalls giving the tenant the one that had the typewritten Details of Cause(s) on it. The landlord believes he gave both of the Notices on November 22, 2021, and does not remember tacking it to the door in February, but has no idea when each of the Notices was served.

Analysis

Where a tenant disputes a notice to end a tenancy given by a landlord, the onus is on the landlord to establish that it was given in accordance with the *Residential Tenancy Act*. In this case, there are 2 One Month Notices to End Tenancy for Cause dated November 22, 2021. The landlord really does not know when or how either of them was served, and has not provided a copy of what was served. Therefore, I am not satisfied that the landlord has established service of either of the Notices, and I cancel them.

The tenant did not testify, and no evidence was lead with respect to the tenants' application for an order that the landlord comply with the *Act* or the tenancy agreement, and I dismiss that portion of the application with leave to reapply.

Since the tenants have been partially successful with the application the tenants are also entitled to recovery of the \$100.00 filing fee. I grant a monetary order in favour of the tenants as against the landlord in that amount, and I order that the tenants may reduce rent for a future month by that amount, or may otherwise recover it by filing the order for enforcement in the Provincial Court of British Columbia, Small Claims division as a judgment.

Conclusion

For the reasons set out above, the tenants' application for an order that the landlord comply with the *Residential Tenancy Act*, regulation or tenancy agreement is hereby dismissed with leave to reapply.

The One Month Notices to End Tenancy for Cause dated November 22, 2021 are hereby cancelled and the tenancy continues.

I hereby grant a monetary order in favour of the tenants as against the landlord pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$100.00 and I order that the tenants be permitted to reduce rent for a future month by that amount, or may otherwise recover it.

This order is final and binding and may be enforced.

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 04, 2022

Residential Tenancy Branch