



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BC HOUSING MANAGEMENT
COMMISSION and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNQ

Introduction

On January 14, 2022, the Tenant applied for a Dispute Resolution proceeding seeking to cancel a Two Month Notice to End Tenancy Because the Tenant Does Not Qualify for Subsidized Rental Unit (the “Notice”) pursuant to Section 49.1 of the *Residential Tenancy Act* (the “Act”).

The Tenant attended the hearing; however, the Landlord did not attend at any point during the 10-minute teleconference hearing. At the outset of the hearing, I informed the Tenant that recording of the hearing was prohibited and she was reminded to refrain from doing so. She acknowledged this term, and she provided a solemn affirmation.

She advised that the Landlord was served with the Notice of Hearing and evidence package by registered mail on January 27, 2022 (the registered mail tracking number is listed on the first page of this Decision). She stated that this package was not returned to sender. Based on this undisputed evidence provided, and in accordance with Sections 89 and 90 of the *Act*, I am satisfied that the Landlord was duly served the Notice of Hearing and evidence package.

All parties were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

I note that Section 55 of the *Act* requires that when a Tenant submits an Application 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 Application is

dismissed and the Landlord has issued a notice to end tenancy that complies with the *Act*.

Issue(s) to be Decided

- Is the Tenant entitled to have the Notice cancelled?
- If the Tenant is unsuccessful in cancelling the Notice, is the Landlord entitled to an Order of Possession?

Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

She advised that the tenancy started on April 1, 2015, that rent was currently established at a subsidized amount of \$486.00 per month, and that it was due on the first day of each month. A security deposit was not paid. A copy of the signed tenancy agreement was not provided as documentary evidence.

She submitted that the Notice was served to her on or around January 11, 2022. A copy of this Notice was provided as documentary evidence.

She stated that she had a hearing last week where it was determined that the parties had settled their differences with respect to any disputes related to this tenancy.

Analysis

Upon consideration of the evidence before me, I have provided an outline of the following Sections of the *Act* that are applicable to this situation. My reasons for making this Decision are below.

I find it important to note that the burden of proof is on the Landlord to substantiate the reasons for ending the tenancy. As the Landlord did not attend the hearing or provide evidence to justify why the Notice was served, I am not satisfied that the Landlord has

established any grounds to substantiate service of the Notice. In addition, when reviewing the first page of the Notice, the address that the Tenant was required to vacate from was left blank, which may have rendered the Notice invalid as it did not comply with the form and content of Section 52 of the *Act*. For these reasons, I find that the Notice is cancelled and of no force and effect.

Conclusion

Based on the above, I hereby Order that the Two Month Notice to End Tenancy Because the Tenant Does Not Qualify for Subsidized Rental Unit of January 11, 2022 to be cancelled and of no force or effect. This tenancy continues until ended in accordance with 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: April 12, 2022

Residential Tenancy Branch