



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- An order to cancel a One Month Notice to End Tenancy for Cause ("One Month Notice") under section 47

The tenant attended the hearing, the landlord did not. I left the teleconference open until 11:12 a.m. to allow the landlord an opportunity to join this hearing. I verified the correct call-in codes were provided in the Notice of Dispute Resolution Proceeding (the Notice of Dispute).

The tenant testified he served the Notice of Dispute package on the landlord in person on January 15, 2022, as evidence by a video recording submitted into evidence. I find the landlord was served in accordance with Sections 88 and 89 of the Act.

The landlord did not upload any evidence for this proceeding.

Preliminary Matter – Landlord's nonattendance

The Residential Tenancy Branch's Rules of Procedure state:

7.1 Commencement of the dispute resolution hearing.

The dispute resolution hearing will commence at the scheduled time unless otherwise set by the arbitrator.

7.3 Consequences of not attending the hearing.

If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.

As I found that the landlord was served in accordance with the Act, I proceeded with the hearing.

Issue(s) to be Decided

Is the tenant entitled to cancel the One Month Notice to end tenancy for cause?

If the tenant fails in their application, is the landlord entitled to an Order of Possession?

Background and Evidence

The tenant testified that this month-to-month tenancy started July 4, 2020. Rent is \$900 per month. The landlord holds a security deposit of \$450 in trust. The tenant continues to occupy the rental unit.

The tenant testified that the landlord served the One Month Notice dated January 2, 2022, on January 2, 2022. The landlord checked the following as grounds for the Notice:

- The tenant or a person permitted on the property by the tenant has
 - Significantly interfered with or unreasonably disturbed another occupant or the landlord.
 - Seriously jeopardized the health or safety or lawful right of another occupant or the landlord.
 - Put the landlord's property at significant risk.
- 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.
 - Adversely affect the quiet enjoyment, security, safety or physical well-being of the other occupant
 - Jeopardize a lawful right or interest of another occupant or the landlord.
- Tenant or a person permitted on the property by the tenant has caused extraordinary damage to the unit/site or property/park.
- Tenant has not done required repairs of damage to the unit/site.
- Break of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

- Rental unit/site must be vacated to comply with a government order.

Under Detail of Causes section, the landlord wrote:

1. Despite several notices and reminders not to smoke weed, cigarettes in the suite but you KG sill smoking.
2. Deck behind the suite allocated for sitting area with one seat and one table provided by you, KG created a tree branch wall despite several notices and reminders have failed to remove this wall.
3. Keeping the backyard dirty at all times even after we clean up.
4. Collecting garbage from streets and putting in the yard.
5. Broken or lost property use items and missing mails since you, KG move in the suite.
6. Now I am getting complaints from neighbors about why police is coming to the property so frequently and hey feel insecure about it.

The tenant testified that he was served the One Month Notice on January 2, 2022, and that he filed for dispute resolution on January 3, 2022. I find the tenant filed to the dispute the One Month Notice in accordance with the Act.

The tenant provided undisputed testimony that none of the sections listed in the One Month Notice are true. He stated that these were false allegations that the landlord could not prove. The tenant took the position that the landlord's accusations are fabricated and imaginary and that the One Month Notice should be cancelled.

Analysis

Section 47 of the *Act* provides that upon receipt of a Notice to End Tenancy for Cause, the tenant may, within ten days, dispute it by filing an application for dispute resolution with the Residential Tenancy Branch.

As I found that the tenant applied within ten days, the landlord bears the burden to prove they have valid grounds to terminate the tenancy for cause. The landlord must show on a balance of probabilities, which is to say it is more likely than not, that the tenancy should be ended for the reasons identified in the Notice.

As the landlord did not attend this hearing the landlord failed to discharge his burden of proof. As the tenant provided undisputed testimony that none of the sections selected in the One Month Notice were true, I grant the tenant's request to cancel the One Month Notice.

I Order, the One Month Notice before me is of no force and effect, the tenancy shall continue until is ended in accordance with the Act.

Conclusion

The One Month Notice is of no force and effect, the tenancy shall continue until is 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 5, 2022

Residential Tenancy Branch