



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **CNC, FFT**

Introduction

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

- cancellation of a One Month Notice to End Tenancy for Cause dated January 7, 2022 ("1 Month Notice") pursuant to section 47; and
- authorization to recover the filing fee of this application from the Landlord pursuant to section 72.

An agent for the Landlord ("PC") and one of the two Tenants ("AN") attended the hearing. They were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

AN stated the Tenants served the Landlord with the Notice of Dispute Resolution Proceeding ("NDRP") by registered mail on January 19, 2022. AN submitted the Canada Post receipt and tracking numbers for service of the NDRP on the Landlord to corroborate her testimony on service of the NDRP. I find the Landlord was served with the NDRP in accordance with the provisions of section 89 of the Act.

Preliminary Matter – Amendment to Change Respondent

PC testified that, although he is named in the Tenants' application as the Landlord, he is not the Landlord. PC provided the name of the Landlord ("ABC") and referred to the 1 Month Notice which stated ABC is the Landlord. PC requested the Tenants' application be amended to add ABC as a respondent and remove PC as the respondent.

Rule 4.2 of the *Residential Tenancy Branch Rules of Procedure* states (“RoP”):

4.2 Amending an application at the hearing

In circumstances that can reasonably be anticipated, such as when the amount of rent owing has increased since the time the Application for Dispute Resolution was made, the application may be amended at the hearing.

If an amendment to an application is sought at a hearing, an Amendment to an Application for Dispute Resolution need not be submitted or served.

As PC’s request could reasonably be anticipated by the Tenants, I amended the Tenants’ application to add ABC as the respondent and to remove PC as a respondent pursuant to Rule 4.2.

Preliminary Matter – Removal and Addition of Claim

At the outset of the hearing, I noted that in the application, the Tenants disputed a 10 Day Notice to End Tenancy for Unpaid Rent and/or Utilities. However, in support of their application, the Tenants submitted a copy of the 1 Month Notice. I also noted the Landlord submitted evidence that related to the 1 Month Notice and not a Ten Day Notice. AN stated it was the Tenants’ intention to dispute the 1 Month Notice and requested that I amend the Tenant’s application accordingly.

PC acknowledged the Landlord prepared for this hearing on the basis that Tenants were disputing the 1 Month Notice. As AN’s request was anticipated by the Landlord and an amendment to the application would not prejudice the Landlord, I amended the application to remove the Tenants’ dispute of a 10 Day Notice to End Tenancy and the addition of the Tenants’ dispute of the 1 Month Notice.

Settlement Agreement

Pursuant to section 63 of the Act, an arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order. During the hearing the parties discussed the issues between them, engaged in a conversation, turned their minds to compromise and achieved a resolution of their dispute.

The parties agreed to the following final and binding settlement of all issues currently under dispute:

1. The Tenants agree to withdraw their application;
2. The Landlord agrees to cancel the 1 Month Notice; and
3. The tenancy will continue until ended in accordance with the provisions of the Act.

The parties gave verbal affirmation at the hearing that they understood and agreed to the above terms as legal, final, and binding, which settle all aspects of the claims made in the Tenants' application against the Landlord.

Conclusion

As the parties have reached a full and final settlement of the claims made by the Tenants against the Landlord, I make no factual findings about the merits of the Tenants' application.

The 1 Month Notice is cancelled and the tenancy continues until ended in accordance with the provisions of 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 7, 2022

Residential Tenancy Branch