



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, MNDC-S, FF

Introduction

This hearing dealt with the landlord's application for dispute resolution (application) seeking remedy under the Residential Tenancy Act (Act) for:

- an order of possession of the rental unit pursuant to a One Month Notice to End Tenancy for Cause (1 Month Notice) served to the tenant;
- compensation for a monetary loss or other money owed;
- authority to keep the tenants' security deposit to use against a monetary award; and
- to recover the cost of the filing fee.

A party listed as an agent on the landlord's application and the tenant's son/occupant attended, the hearing process was explained, and they were given an opportunity to ask questions about the hearing process.

The parties were informed at the start of the hearing that recording of the dispute resolution hearing is prohibited under the Residential Tenancy Branch (RTB) Rules of Procedure (Rules) Rule 6.11 and both parties affirmed they were not recording the hearing.

Preliminary and Procedural Matters-

#1- Identification of the parties –

Prior to considering the landlord's evidence, I inquired of the party representing the landlord's interest how they knew the landlord or the facts in this case. The party, CW, said they were a friend of a friend of the landlord. Despite being questioned

extensively, I find CW submitted insufficient evidence that they were familiar enough with the matters in this application, or had personal knowledge of the facts enough to represent the interests of the landlord and to respond to any evidence that may be presented by the tenant's agent.

Rule 6.8 states the arbitrator may require an agent to provide proof of their appointment to represent a party. CW said they had written authority, but failed to provide it.

CW said that the landlord does not live in Canada and the friend of the landlord failed to appear as well. Additionally, CW could not provide an email address for the landlord.

I find neither CW nor the landlord submitted sufficient evidence that CW had authority to represent the landlord at the hearing and find the hearing could not continue on the merits of the landlord's application, for this reason and the following reasons.

#2- Insufficient evidence of service of hearing documents or 1 Month Notice –

The tenant's agent submitted that neither he nor his father received the Application for Dispute Resolution, evidence, and Notice of Hearing (application package) from the landlord. The tenant's agent said that they only learned of the hearing from the arbitrator in a previous dispute resolution hearing. The tenant's agent also said that their father, the tenant, was out of the country due to a medical issue.

The tenant's agent also denied receiving a copy of the 1 Month Notice.

In response to my inquiry, CW said he witnessed the landlord's friend tape the 1 Month Notice to the door and delivered the hearing documents personally. In response to my inquiry, CW could not confirm that he knew what the tenant looked like, but said they knew it was the tenant as the person who they handed the documents to was (*nationality*).

As CW was unclear who was handed any documents or for the fact the witnesses to the service of documents were not present at the hearing, I find the landlord submitted insufficient evidence that the correct party and or tenant received either the application package or the 1 Month Notice.

#3 – Deficient Notice –

The 1 Month Notice filed in evidence was the 3-page form provided by the RTB. There was a photograph provided by the landlord showing the 3-page Notice form taped to a door.

The landlord or agent marked the boxes on the Notice, which alleged that the tenant or a person permitted on the property by the tenant put the landlord's property at significant risk and breached a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

In the Details of Causes portion of the Notice, the landlord was instructed to "Describe what, where, and who caused the issue and include dates/times, names etc. This information is required. An arbitrator may cancel the notice if details are not provided. In this box, the landlord wrote, "See the details as attached file (*date, unit number*)- Account Statement. There was no attached file, however, either in the landlord's evidence of the 1 Month Notice or the 1 Month Notice taped to a door. CW confirmed that this was the entire 1 Month Notice taped to a door.

I have reviewed the Notice and I find the landlord did not provide any Details of Causes and I therefore find the Notice insufficient for the tenant to properly rebut the Notice.

For these reasons, I find the Notice does not comply with section 52(d) and (e) of the Act and is invalid as it does not state the "Details of Cause(s)" portion which would set out the specific allegations of the causes listed by the landlord on the Notice. Therefore, I find the Notice is not valid as it is missing necessary and required information. The Act requires that notices to end tenancy issued by the landlord be in the approved form due to the fact that the approved forms contain all of the required information a tenant would need to dispute the Notice, if necessary.

As a result, I **ORDER** that the 1 Month Notice is cancelled, and is of no force or effect. The tenancy will continue until ended in accordance with the Act.

4-Sever –

Rule 2.3 authorizes me to dismiss unrelated disputes contained in a single application. I find the primary issue in the landlord's application is their request for an order of possession of the rental unit based upon the 1 Month Notice. I severed the landlord's monetary claim and I **dismiss** this portion of the landlord's application, with leave to reapply. Leave to reapply is not an extension of any applicable time limit.

I also dismiss the landlord's request to recover the filing fee, without leave to reapply, as their application is not successful.

For the reasons given above, I have ordered the landlord's 1 Month Notice is cancelled, and it is of no force or effect. I ordered the tenancy continue until it otherwise ends under the Act.

I dismiss the landlord's monetary claim, with leave to reapply. I dismiss the landlord's request to recover the filing fee, without leave to reapply.

In the event that there be another dispute resolution filed by the landlord, I caution the landlord to correct the issues I have addressed in the Preliminary and Procedural Matters.

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*. Pursuant to section 77(3) of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: April 15, 2022

Residential Tenancy Branch