



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FFT, CNC, OLC, LRE, PSF

Introduction

The Tenant filed an Application for Dispute Resolution on January 10, 2022 seeking:

- to dispute a One Month Notice to End Tenancy for Cause
- suspension/set conditions on the Landlord's right to enter
- provision of services/facilities required by the agreement or law
- the Landlord's compliance with the legislation and/or the tenancy agreement
- reimbursement of the Application filing fee.

The matter proceeded by way of a hearing pursuant to s. 74(2) of the *Residential Tenancy Act* (the "Act") on April 11, 2022.

The Tenant and the Landlord attended the hearing, and each was provided the opportunity to present oral testimony and make submissions during the hearing.

Preliminary Matter

The *Residential Tenancy Branch Rules of Procedure* permit an Arbitrator the discretion to dismiss unrelated claims with or without leave to reapply. Rule 2.3 describes 'related issues', and Rule 6.2 provides that the Arbitrator may refuse to consider unrelated issues. It states: "... if a party has applied to cancel a Notice to End Tenancy or is seeking an order of possession, the arbitrator may decline to hearing other claims that have been included in the application and the arbitrator may dismiss such matters with or without leave to reapply."

At the outset, I advised both parties of the immediate issue concerning the One-Month Notice. The matter of urgency here is the possible end of this tenancy. I find the most

important issue to determine is whether or not the tenancy is ending, based on any of the notices to end tenancy issued by the Landlord.

For this reason, I dismiss the Tenant's request for conditions on the Landlord's entry, provision of services, and the Landlord's compliance with the *Act*/tenancy agreement, with leave to re-apply. This means the Tenant may file a new and separate application to address these issues or any others.

Issue(s) to be Decided

Is the Tenant entitled to an order that the landlord cancel the One Month Notice?

If the tenant is unsuccessful in their Application, is the Landlord entitled to an Order of Possession of the rental unit?

Is the Tenant entitled to reimbursement of the Application filing fee?

Background and Evidence

The Landlord presented that they issued the One-Month Notice on January 7, 2022. This was for the end-of-tenancy date for February 28, 2022. They presented in the hearing that they provided checked reasons on the second page of the document: significant interference and unreasonable disturbance.

The Landlord explained the background reasons for which they issued this One-Month Notice:

- a leak in the bathroom, and kitchen, required renovations that the Landlord completed after they arranged this with the Tenant
- when they attended to take care of residual matters, they had a confrontation with the Tenant where the Tenant got abusive and wouldn't allow the Landlord to exit, then calling the RCMP
- the Tenant claimed someone took their spot for use of the dryer in the laundry room, their instruction to the Tenant not to overload the machine turned into a confrontation, with another Tenant observing this

The Landlord stated they provided 6 pages of evidence in response to this Application. On my request, they forwarded these 6 pages. They did not submit a copy of the completed One-Month Notice.

The Tenant described the incidents from their perspective, indicating their voice normally has a higher register. The Tenant also alleged the Landlord was interrupting their washing by stopping the machines

Analysis

The *Act* s. 47 is the provision that deals with the landlord ending the tenancy for many different conditions. Here, the landlord ostensibly issued the One-Month Notice for the reason of the Tenant's disturbance and interference.

On my direction, as per Rule 3.19 of the *Residential Tenancy Branch Rules of Procedure*, the Landlord submitted their evidence again. This consisted of handwritten material to the Tenant explaining the reasons for issuing the end-of-tenancy notice.

In deciding on the end of tenancy, and whether the reasons for ending the tenancy are valid, the onus lies with the Landlord to provide ample proof that the reasons are valid. More basically, regarding the validity of the notice to end tenancy, s. 52 states:

- 52** In order to be effective, a notice to end a tenancy must be in writing and must
- (a) be signed and dated by the landlord or tenant giving the notice,
 - (b) give the address of the rental unit,
 - (c) state the effective date of the notice,
 - (d) . . . state the grounds for ending the tenancy,
 . . . and
 - (e) when given by a landlord, be in the approved form.

In this hearing, the Landlord did not submit a copy of the One-Month Notice. Because of this, I cannot verify if the document is correct, containing the mandatory information that the *Act* specifies.

The *Act* requires that notices to end tenancy by the Landlord be in the approved form. The Landlord did not provide a copy of the One-Month Notice; therefore, I cannot verify this. The Landlord has not met the burden of proof to show the One-Month Notice is valid; therefore, I cancel that One-Month Notice. It is of no legal effect.

With the One-Month Notice cancelled, the tenancy will continue and there is no order of possession.

As the Tenant was successful in this application, I find the Tenant is entitled to recover the \$100.00 filing fee paid for this application. I authorize the Tenant to withhold the amount of \$100.00 from one future rent payment.

Conclusion

For the reasons above, I order that the One-Month Notice issued on January 7, 2022 as indicated on the Tenant's Application, is cancelled and the tenancy remains in full force and effect.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under s. 9.1(1) of the *Act*.

Dated: April 11, 2022

Residential Tenancy Branch