



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with the tenants' application, filed on February 10, 2022, pursuant to the *Residential Tenancy Act* ("Act") for:

- cancellation of the landlord's One Month Notice to End Tenancy for Cause, dated January 31, 2022 ("1 Month Notice"), pursuant to section 47.

The two tenants did not attend this hearing, which lasted approximately 11 minutes. The landlord attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

This hearing began at 11:00 a.m. and ended at 11:11 a.m. I monitored the teleconference line throughout this hearing. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord and I were the only people who called into this teleconference.

The landlord confirmed his name and spelling. He provided his mailing address for me to send this decision to him after the hearing.

The landlord stated that he is the landlord for this rental unit, but he does not own it. He said that he had authority to represent the owner of the rental unit. He provided the rental unit address.

Rule 6.11 of the Residential Tenancy Branch ("RTB") *Rules of Procedure* does not permit recording of this hearing by any party. At the end of this hearing, the landlord affirmed, under oath, that he did not record this hearing.

I explained the hearing process to the landlord. I informed him that I could not provide legal advice to him or act as his agent or advocate. He had an opportunity to ask questions. He did not make any adjournment or accommodation requests.

The landlord confirmed receipt of the tenants' application for dispute resolution hearing package. In accordance with sections 89 and 90 of the *Act*, I find that the landlord was duly served with the tenants' application.

Preliminary Issue – Dismissal of Tenants' Application

Rule 7.3 of the RTB *Rules of Procedure* provides as follows:

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.

In the absence of any appearance by the tenants, I order the tenants' entire application dismissed without leave to reapply.

Pursuant to section 55 of the *Act*, if I dismiss the tenants' application to cancel a 1 Month Notice, the landlord is entitled to an order of possession, provided that the notice meets the requirements of section 52 of the *Act*.

The tenants provided a copy of the landlord's 1 Month Notice using an old RTB form, dated March 2011. The date of the notice is January 31, 2022, and the effective move-out date is March 1, 2022. The landlord confirmed the above information during this hearing.

Sections 47 and 52 of the *Act*, state in part (my emphasis added):

47 *(1) A landlord may end a tenancy by giving notice to end the tenancy if one or more of the following applies...*

...

(3) A notice under this section must comply with section 52 [form and content of notice to end tenancy].

52 **In order to be effective, a notice to end a tenancy must be in writing and must**

(e) when given by a landlord, be in the approved form.

The landlord did not issue a 1 Month Notice to the tenant in the approved RTB form, as required by sections 47 and 52 of the *Act*. The landlord used a form, dated March 2011, that is no longer available or approved by the RTB. The form is over 11 years old. I informed the landlord of the above information during this hearing, and he confirmed his understanding of same.

The current approved RTB form is dated November 30, 2021 and requires the details of cause to be described on page 2 of the notice, as follows (my emphasis added):

*Details of Cause(s): 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.***

The landlord did not include the above required details in his 1 Month Notice, as the 2011 form does not include or require this information. I informed the landlord of the above information during this hearing, and he confirmed his understanding of same.

On a balance of probabilities and for the above stated reasons, the landlord's 1 Month Notice, dated January 31, 2022, is cancelled and of no force or effect. This tenancy continues until it is ended in accordance with the *Act*. I informed the landlord of my above decision verbally during this hearing. He confirmed his understanding of same.

Conclusion

The tenants' application is dismissed without leave to reapply. The landlord's 1 Month Notice, dated January 31, 2022, is cancelled and of no force or effect. The landlord is not entitled to an order of possession. This tenancy continues until it 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: May 13, 2022

Residential Tenancy Branch