



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 353806 BC LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

On February 16, 2022, the Tenant applied for a Dispute Resolution proceeding seeking to cancel a One Month Notice to End Tenancy for Cause (the “Notice”) pursuant to Section 47 of the *Residential Tenancy Act* (the “Act”).

D.D. attended the hearing as counsel for the Tenant, and C.B. attended the hearing as an observer. However, the Landlord did not attend at any point during the 10-minute teleconference hearing. At the outset of the hearing, I informed the parties that recording of the hearing was prohibited and they were reminded to refrain from doing so.

D.D. advised that the Landlord was served with the Notice of Hearing package by registered mail on February 26, 2022 (the registered mail tracking number is noted on the first page of this Decision). She stated that the registered mail tracking history indicated that this package was delivered on February 28, 2022. Based on this undisputed testimony and the evidence provided, and in accordance with Sections 89 and 90 of the *Act*, I am satisfied that the Landlord was duly served the Notice of Hearing package.

She also advised that the Landlord was served with the Tenant’s evidence package by email on May 11, 2022. She stated that there was no response to this email; however, the Landlord did provide a letter to the Tenant attempting to cancel the Notice.

All parties were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

I note that Section 55 of the *Act* requires that when a Tenant submits an Application for Dispute Resolution seeking to cancel a notice to end tenancy issued by a Landlord, I must consider if the Landlord is entitled to an Order of Possession if the Application is dismissed and the Landlord has issued a notice to end tenancy that complies with the *Act*.

Issue(s) to be Decided

- Is the Tenant entitled to have the Notice cancelled?
- If the Tenant is unsuccessful in cancelling the Notice, is the Landlord entitled to an Order of Possession?

Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

D.D. advised that the tenancy started on November 18, 2015, that rent was currently established at \$800.00 per month, and that it was due on the first day of each month. A security deposit of \$400.00 was also paid. A copy of the signed tenancy agreement was provided as documentary evidence.

She submitted that the Notice was posted to the Tenant's door on February 9, 2022. A copy of this Notice was provided as documentary evidence.

Analysis

Upon consideration of the evidence before me, I have provided an outline of the following Sections of the *Act* that are applicable to this situation. My reasons for making this Decision are below.

I find it important to note that the burden of proof is on the Landlord to substantiate the reasons for ending the tenancy. As the Landlord did not attend the hearing or provide evidence to justify why the Notice was served, I am not satisfied that the Landlord has

established any grounds to substantiate service of the Notice. Therefore, I find that the Notice is cancelled and of no force and effect.

Conclusion

Based on the above, I hereby Order that the One Month Notice to End Tenancy for Cause, in relation to this Application, of February 9, 2022 to be cancelled and of no force or effect. This tenancy continues until 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 30, 2022

Residential Tenancy Branch