



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding SUNNYLAND INVESTMENT
INC and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes **CNE, PSF, OLC**

Introduction

This hearing dealt with an application filed by the tenant pursuant the *Residential Tenancy Act* (the “Act”) for:

- An order to cancel a notice to end tenancy for end of employment, pursuant to sections 48 and 55;
- An order that the landlord provide services or facilities required by the tenancy agreement pursuant to section 27; and
- An order for the landlord to comply with the Act, regulations or tenancy agreement pursuant to section 62.

The tenant and his agent/son attended at the date and time set for the hearing of this matter. The landlord did not attend this hearing, although I left the teleconference hearing connection open until 11:30 a.m. in order to enable the landlord to call into this teleconference hearing scheduled for 11:00 a.m. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Dispute Resolution Proceeding. I also confirmed from the teleconference system that the tenant and I were the only ones who had called into this teleconference.

As only the tenant attended the hearing, I asked the tenant to confirm that he had served the landlord with the Notice of Dispute Resolution Proceeding for this hearing. The tenant testified that he had served the landlord with the notice of this hearing and his evidence by Canada Post Xpresspost mail (with signature option) on March 10, 2022 and referred to the Canada Post tracking number. I have noted the tracking number on the cover sheet of this decision.

During the hearing, the tenant looked up the tracking number and testified to me that the Notice of Dispute Resolution Hearing package was received by the landlord on March 14th and that a person with the initials of JX signed for it. I find the Notice of

Dispute Resolution Hearing package was sufficiently served upon the landlord on March 14th pursuant to sections 89 of the Act.

This hearing was conducted in the absence of the landlord in accordance with Rule 7.3 of the Residential Tenancy Branch Rules of Procedure.

At the commencement of the hearing, the tenant's agent advised me that the tenant didn't mean to apply for an order that the landlord comply with the Act or provide services or facilities as shown in his application. The tenant also meant to seek an order to cancel a notice to end tenancy for cause, not an order to cancel a notice to end tenancy for end of employment. Pursuant to section 64 of the Act, I amended the tenant's application to change the nature of his application to cancel the landlord's notice to end tenancy and I dismissed the remainder of the tenant's application at the start of the hearing.

Issue(s) to be Decided

Should the landlord's notice to end tenancy for cause be upheld or cancelled?

Background and Evidence

The tenant testified that he has lived in the rental unit for more than 10 years. He was served with the landlord's notice to end tenancy some time between February 18th and February 23rd when it was posted to his door.

A copy of the notice to end tenancy was provided as evidence. The reasons for ending the tenancy are:

1. tenant has not done required repairs of damage to the unit/site/property/park;
2. breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so;

Under "details of cause" the landlord cites allegations that the tenant's dog has either urinated, defecated or vomited inside the building and that the tenant did not clean up after his dog.

The tenant vehemently denies the allegations as stated by the landlord and testified that he has always cleaned up after his dog by picking up the dog's waste and properly disposing of it. His dog has never made a mess inside the building.

Analysis

Section 47 of the *Act* provides that upon receipt of a Notice to End Tenancy for Cause the tenant may, within ten days, dispute the notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch.

The earliest date the tenant could have received the landlord's 1 Month Notice to End Tenancy for Cause is February 18th, the day it was issued. The tenant filed an application to dispute the notice on February 23rd, which is within ten days of receipt of the notice. Therefore, I find that the tenant has applied to dispute the notice within the time limits provided by section 47 of the *Act*.

As set out in the Residential Tenancy Branch Rules of Procedure 6.6 and as I explained to the tenant in the hearing, if the tenant files an application to dispute a notice to end tenancy, the landlord bears the burden, on a balance of probabilities, to prove the grounds for the notice and that the notice is on the approved form and compliant with section 52 of the *Act*.

Accordingly, in the absence of any testimony or evidence from the landlord, who bears the burden of proof in this matter, I find that the landlord has failed to prove the grounds for issuing the One Month Notice. Consequently, I find the landlord's notice to end tenancy issued on February 18, 2022 is invalid and I dismiss it. This tenancy shall continue until it is ended in accordance with the *Act*.

Conclusion

The landlord's notice to end tenancy is cancelled and of no further force or effect.

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: June 06, 2022

Residential Tenancy Branch