



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL, FF

Introduction

This hearing convened to deal with the tenant's application for dispute resolution (application) seeking remedy under the Residential Tenancy Act (Act). The tenant applied on March 14, 2022 for an order cancelling the Two Month Notice to End Tenancy for Landlord's Use of Property (Notice) issued by the landlord and recovery of the cost of the filing fee.

The tenant was present and ready to proceed at beginning of the hearing. The landlord, LD, called in at the 10 minute mark. The parties were then given conduct of the hearing instructions, which included cautions about interrupting others at the hearing. The parties were affirmed.

The parties were informed prior to connecting to the hearing that recording of the dispute resolution hearing is prohibited.

Thereafter the parties were provided the opportunity to present their evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch Rules of Procedure (Rules). However, not all details of the parties' respective submissions and or arguments are reproduced here; further, only the evidence specifically referenced by the parties and relevant to the issues and findings in this matter are described in this Decision.

Following is a summary of those submissions and includes only that which is relevant to the matters before me. Words utilizing the singular shall also include the plural and vice versa where the context requires.

Procedural Matters –

As noted, the landlord called into the hearing 10 minutes after it began. The landlord said they were at their work and was challenged to hear me during the hearing as a result.

For a period of time, the landlord interrupted the proceedings. At the end of the hearing, when I asked if the parties had questions, the tenant asked her questions. Afterwards, the landlord asked a question about her options, and as I was responding that I could not provide the landlord with advice, the landlord began talking over me. I then disconnected from the hearing, due to the interruptions of the landlord.

Issue(s) to be Decided

Is the tenant entitled to cancellation of the 2 Month Notice?

Is the tenant entitled to recovery of the cost of the filing fee?

Background and Evidence

Filed in evidence was the written tenancy agreement, indicating the tenancy began on April 15, 2019. The monthly rent is \$2,150.

Also filed in evidence was a copy of the 2 Month Notice, which was the subject of this dispute.

The 2 Month Notice was dated March 1, 2022, signed by the landlord, and listed an effective date of May 1, 2022.

On the portion of the 2 Month Notice listing the reason for the Notice, the landlord is instructed to check **the** box that applies. On this 2 Month Notice, the landlord marked two boxes. One reason was that the rental unit will be occupied by the father or mother of the landlord. The other reason that was marked, listed that the landlord is a family

corporation and a person owning voting shares in the corporation, or a close family member of that person, intends in good faith to occupy the rental unit.

In their application, the tenant wrote the following:

landlord is ending the tenancy not in good faith. The landlord told verbally that he is rebuilding his primary residence but in notice he claims that father/mother/spouse is moving. I don't believe that these are true intentions as landlord wanted to rent for higher rent because similar properties are currently being rented at higher rent. And which landlord himself has implied to us many times during the past several months but he could not increase it due to COVID. Repair not done on request.

[Reproduced as written]

To support the 2 Month Notice, the landlord testified that her family needs the home for additional space. In particular, the landlord said that their brother and family were moving into the home, in addition to other family members.

Analysis

Based on the relevant oral and written evidence, and on a balance of probabilities, I find as follows:

Section 49(7) of the Act states “a notice under this section **must** comply with section 52 *[form and content of notice to end tenancy]*”.

Section 52(e) requires in order to be effective, a notice to end a tenancy must be in writing and must be in the approved form, if given by a landlord.

In this case, the landlord was instructed to mark one reason for giving the tenant the Notice, and they instead marked two reasons. I find these reasons are exclusive and inconsistent of each other.

I therefore find the landlord submitted insufficient evidence that the tenant was served with a notice to end tenancy with the required content.

Tenancy Policy Guideline 18 states that an arbitrator may not amend a form which does not contain the required information.

Therefore, I find the Two Month Notice is not valid as it has been completed incorrectly.

As a result of the above, I **ORDER** the Two Month Notice in this matter is **cancelled** and is of **no force or effect**.

I **ORDER** the tenancy to continue until ended in accordance with the *Act*.

As the tenant's application was successful, I grant the tenant the recovery of the cost of the filing fee under section 72 of the Act in the amount of **\$100**. Pursuant to sections 67 and 72 of the Act, I grant the tenant a one-time rent reduction of **\$100** from a future month's rent in full satisfaction of the recovery of the cost of the filing fee.

Conclusion

The tenant's application is successful. The Two Month Notice issued by the landlords is ordered cancelled and is of no force or effect.

The tenancy shall continue until ended in accordance with the Act. The tenant has been granted a one-time rent reduction of \$100 from a future month's rent in full satisfaction of the recovery of the cost of the filing fee.

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: June 30, 2022

Residential Tenancy Branch