



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **CNE**

Introduction

This hearing dealt with the Tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for cancellation of the Landlord's One Month Notice to End Tenancy issued for End of Employment (the "One Month Notice") pursuant to Sections 48 and 62 of the Act.

The hearing was conducted via teleconference. The Tenant and Legal Advocate, SAB and AML, attended the hearing at the appointed date and time and provided affirmed testimony. The Landlord did not attend the 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 Tenant, Legal Advocate, and I were the only ones who had called into this teleconference. The Tenant was given a full opportunity to be heard, to make submissions, and to call witnesses.

I advised the Tenant and Legal Advocate that Rule 6.11 of the Residential Tenancy Branch (the "RTB") Rules of Procedure prohibits the recording of dispute resolution hearings. The Tenant and Legal Advocate testified that they were not recording this dispute resolution hearing.

The Tenant was served with the One Month Notice which was posted on her door. The Tenant did not confirm the date she received it, but the One Month Notice is dated January 31, 2022. I find the One Month Notice was sufficiently served on the Tenant on February 3, 2022 according to Sections 71(2) and 88(g) of the Act.

The Tenant confirmed that she and her daughter personally served the Landlord with the Notice of Dispute Resolution Proceeding package and evidence for this hearing on

February 27, 2022 (the “NoDRP package”). The Tenant uploaded pictures of her giving the NoDRP package to the Landlord. The Tenant testified that the Landlord said when the Tenant was serving the NoDRP package on the Landlord, that the Landlord knows why the Tenant is giving her the package and she will be at the hearing. I find that the Landlord was sufficiently served with the NoDRP package for this hearing on February 27, 2022, in accordance with Section 71(2) of the Act.

Issues to be Decided

1. Is the Tenant entitled to cancellation of the Landlord’s One Month Notice?
2. If the Tenant is unsuccessful, is the Landlord entitled to an Order of Possession?

Background and Evidence

I have reviewed all written and oral evidence and submissions before me; however, only the evidence and submissions relevant to the issues and findings in this matter are described in this decision.

The Tenant confirmed that this periodic tenancy began in January 2014. Monthly rent is \$959.00 payable on the first day of each month. A security deposit of \$400.00, and a pet damage deposit of \$400.00 were collected at the start of the tenancy and the Tenant believes the Landlord still holds both deposits.

Only pages one and three of the One Month Notice were uploaded into documentary evidence. Page two lists the reasons for the Landlord’s end of tenancy. The claim code for this matter was to cancel a notice to end tenancy for end of employment, but the Legal Advocate felt the One Month Notice was for cause. The Tenant seeks to cancel the One Month Notice.

Analysis

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim. Where a tenant applies to dispute a notice to end a tenancy issued by a landlord, the onus is on the landlord to prove, on a balance of probabilities, the grounds on which the notice to end tenancy were based.

This hearing was conducted pursuant to RTB Rules of Procedure 7.3, in the Landlord's absence, therefore, all the Tenant's testimony is undisputed. Rules of Procedure 7.3 states:

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.*

The dispute application was submitted as a notice to end tenancy for end of employment. Section 48 of the Act is the relevant part of the legislation in this regard. It states:

Landlord's notice: end of employment with the landlord

- 48** (1) *A landlord may end the tenancy of a person employed as a caretaker, manager or superintendent of the residential property of which the rental unit is a part by giving notice to end the tenancy if*
- (a) the rental unit was rented or provided to the tenant for the term of his or her employment,*
 - (b) the tenant's employment as a caretaker, manager or superintendent is ended, and*
 - (c) the landlord intends in good faith to rent or provide the rental unit to a new caretaker, manager or superintendent.*
- (2) *An employer may end the tenancy of an employee in respect of a rental unit rented or provided by the employer to the employee to occupy during the term of employment by giving notice to end the tenancy if the employment is ended.*
- (3) *A notice under this section must end the tenancy effective on a date that is*
- (a) not earlier than one month after the date the tenant receives the notice,*
 - (b) not earlier than the last day the tenant is employed by the landlord, and*

- (c) *the day before the day in the month, or in the other period on which the tenancy is based, that rent, if any, is payable under the tenancy agreement.*
- (4) *A notice under this section must comply with section 52 [form and content of notice to end tenancy].*
- (5) *A tenant may dispute a notice under this section by making an application for dispute resolution within 10 days after the date the tenant receives the notice.*
- ...

The Tenant was sufficiently served with the One Month Notice on February 3, 2022. I find the Tenant applied for dispute resolution on February 9, 2022, within the ten days after receipt of the One Month Notice. The Landlord's One Month Notice did not include the grounds for ending the tenancy. Section 52 of the Act states:

Form and content of notice to end tenancy

- 52** *In order to be effective, a notice to end a tenancy must 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) *except for a notice under section 45 (1) or (2) [tenant's notice], state the grounds for ending the tenancy,*
 - (e) *(d.1) for a notice under section 45.1 [tenant's notice: family violence or long-term care], be accompanied by a statement made in accordance with section 45.2 [confirmation of eligibility], and*
 - (f) *when given by a landlord, be in the approved form. (emphasis mine)*

The Landlord did not attend this hearing despite being served with the Tenant's NoDRP package. It is the Landlord's burden to prove, on a balance of probabilities, the grounds on which the notice to end tenancy were based. A complete One Month Notice was not provided in documentary evidence and the Landlord did not attend this hearing to provide evidence for the grounds to end this tenancy. I find that the Landlord's One

Month Notice did not comply with the form and content requirements of Section 52 of the Act. I find that the Landlord has not met their burden to prove the grounds on which to end this tenancy and I cancel the One Month Notice. The tenancy will continue until ended in accordance with the Act.

Conclusion

The One Month Notice is cancelled, and the tenancy will continue 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 Act.

Dated: June 01, 2022

Residential Tenancy Branch