



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **FFT, CNC**

Introduction

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

- Authorization to recover the filing fee from the other party pursuant to section 72; and
- An order to cancel a 1 Month Notice to End Tenancy for Cause, pursuant to sections 47 and 55.

The tenant and his advocate 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 9:40 a.m. in order to enable the landlord to call into this teleconference hearing scheduled for 9:30 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 registered mail on May 13, 2022, and referred to the Canada Post registered mail receipt with tracking number submitted into documentary evidence as proof of service. I have noted the registered mail tracking number on the cover sheet of this decision. The tenant testified that the landlord’s Notice of Dispute Resolution Hearing package was sent to the address provided by the landlord on the notice to end tenancy and that the package was returned to the tenant as undelivered by Canada Post.

I deem the Notice of Dispute Resolution Hearing served on the landlord on May 18, 2022, five days after it was sent via registered mail in accordance with sections 89 and 90 of the Act.

Issue(s) to be Decided

Should the landlord's 1 Month Notice to End Tenancy for Cause be upheld or cancelled?

Can the tenant recover the filing fee?

Background and Evidence

The tenant testified that the tenancy began in October of 2018. Rent is currently \$1,092.00 per month, payable on the first day of each month. The landlord served the tenant with a 1 Month Notice to End Tenancy for Cause by leaving a copy in the tenant's mailbox on April 16th or 17th. A copy of the notice to end tenancy was provided as evidence.

The tenant testified that the copy of the notice to end tenancy provided as evidence before me was not signed by the landlord.

Analysis

This hearing was conducted in the absence of the landlord pursuant to Rule 7.3 of the Residential Tenancy Branch Rules of Procedure. As such, the landlord was not present to dispute the tenant's application to cancel the notice to end tenancy.

I find the tenant was served with the landlord's notice to end tenancy on April 17, 2022, the day he found a copy of it in his mailbox, pursuant to sections 88 and 90 of the Act. The tenant filed an application to dispute the landlord's notice within 10 days, on April 16, 2022 in accordance with section 47 of the Act.

Section 47(3) states that a landlord's notice to end tenancy for cause **must comply** with section 52 [form and content of notice to end tenancy].

Section 52 states:

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
- (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,

(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

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

I have reviewed the notice to end tenancy served upon the tenant and I find that it does not comply with the form and content provisions of section 52 of the Act in that it is not signed by the landlord.

I note that section 68 of the Act allows me to amend the notice to end tenancy if I am satisfied a) the tenant knew or ought to have known the information that was omitted from the notice and b) in the circumstances it is reasonable to amend the notice. The landlord did not attend this hearing to provided me with any circumstances as to why I ought to amend the notice. Further, I find that the landlord's signature is required on a notice to end tenancy so that the tenant can determine conclusively that the person issuing it is actually his landlord. I find the lack of a signature renders the notice ineffective and consequently, I cancel it.

As the tenant's application was successful, the tenant is also entitled to recovery of the \$100.00 filing fee for the cost of this application.

Conclusion

The landlord's 1 Month Notice to End Tenancy for Cause is cancelled and of no further force or effect.

The tenant is ordered to deduct \$100.00 from one single payment of rent due to the landlord pursuant to section 72 of 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: June 06, 2022

Residential Tenancy Branch