



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding COLUMBIA PROPERTY MANAGEMENT LTD. and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes **CNR-MT**

Introduction

This hearing dealt with the Tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

1. Cancellation of the Landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the "10 Day Notice") pursuant to Sections 46(1) and 62 of the Act; and,
2. More time to dispute the notice pursuant to Section 66 of the Act.

The hearing was conducted via teleconference. The Landlord's Agent and the Tenant attended the hearing at the appointed date and time. Both parties were each given a full opportunity to be heard, to present affirmed testimony, to call witnesses, and make submissions.

Both parties were advised that Rule 6.11 of the Residential Tenancy Branch (the "RTB") Rules of Procedure prohibits the recording of dispute resolution hearings. Both parties testified that they were not recording this dispute resolution hearing.

Both parties acknowledged receipt of:

- the Landlord's 10 Day Notice, served February 4, 2022; and,
- the Tenant's Notice of Dispute Resolution Proceeding package and all evidence, served March 18, 2022.

Pursuant to Sections 88 and 89 of the Act, I find that both parties were duly served with all documents related to the hearing in accordance with the Act.

Issues to be Decided

1. Is the Tenant entitled to cancellation of the Landlord's 10 Day Notice?
2. If the Tenant is unsuccessful, is the Landlord entitled to an Order of Possession?
3. Is the Tenant entitled to more time to dispute the notice?

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 parties confirmed that this tenancy began as a fixed term tenancy on December 1, 2018. The fixed term ended on November 30, 2019, then the tenancy continued on a month-to-month basis. Monthly rent is \$1,015.00 payable on the first day of each month. A security deposit of \$487.50 was collected at the start of the tenancy and is still held by the Landlord.

The reason in the 10 Day Notice why the Landlord was ending the tenancy was because the Tenant owed \$1,015.00 in outstanding rent on February 1, 2022. The effective date of the 10 Day Notice was February 4, 2022.

The Tenant uploaded the 10 Day Notice he received which said the notice was signed on "14/Feb/2022", and the move out date was "04/Feb/2022". The Landlord uploaded a handwritten amended 10 Day Notice specifying the signed date as "04/Feb/2022", and the move out date as "14/Feb/2022". The Landlord's copy of the 10 Day Notice has a handwritten note at the top of the notice stating "PAID".

The Tenant testified that he paid \$520.00 on February 15, 2022, and \$520.00 on February 16, 2022. The Tenant stated this included the late fees charged by the Landlord. The Landlord uploaded a One Month Notice to End Tenancy for Cause dated February 22, 2022 and testified that they are "just pursuing the 30 day notice". Neither the Tenant nor the Landlord have taken any steps to address this One Month Notice.

Both parties confirmed that rent was fully paid for February, March, April, May, and June 2022.

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.

The Tenant applied to dispute a 10 Day Notice that was received as signed by the Landlord on February 14, 2022, with a move-out date of February 4, 2022. The Landlord uploaded a handwritten amended 10 Day Notice specifying the signed date as “04/Feb/2022”, and the move out date as “14/Feb/2022”. The Landlord’s copy of the 10 Day Notice has a handwritten note at the top of the notice stating “PAID”.

I find the Tenant received a 10 Day Notice that while in the approved form, failed to provide an accurate move-out date or date that it was signed. While the Landlord provided a hand-written amendment, I find this further created confusion for all parties involved. Pursuant to Section 68(2)(b) of the Act, I set aside the 10 Day Notice. The tenancy will continue until ended in accordance with the Act.

Conclusion

The Tenant’s application is granted, 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: July 14, 2022

Residential Tenancy Branch