



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL

Introduction

This hearing dealt with an application filed by the tenant pursuant the *Residential Tenancy Act* (the "Act") for an order to cancel a 2 Month Notice to End Tenancy for Landlord's Use pursuant to sections 49 and 55.

The tenant attended the hearing, and the landlord attended the hearing accompanied by his accountant, LF. As both parties were present, service of documents was confirmed. The landlord acknowledged service of the tenant's Notice of Dispute Resolution Proceedings package and had no issues with timely service of documents.

The parties were informed at the start of the hearing that recording of the dispute resolution is prohibited under the Rule 6.11 of the Residential Tenancy Branch Rules of Procedure ("Rules") and that if any recording was made without my authorization, the offending party would be referred to the RTB Compliance Enforcement Unit for the purpose of an investigation and potential fine under the Act.

Each party was administered an oath to tell the truth and they both confirmed that they were not recording the hearing.

Issue(s) to be Decided

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

Background and Evidence

The landlord testified that the parties signed a tenancy agreement, however no copy was provided for this hearing. The landlord testified that the tenant named on the tenancy agreement is MS. The landlord testified that the tenant's name may be MSF, not MS, having discovered this through the tenant's neighbour.

The landlord served the tenant with a 2 Month Notice to End Tenancy for Landlord's Use on March 14, 2022, which the tenant acknowledges receiving on that date, via personal service.

The tenant provided a copy of the first page of the 2 Month Notice to End Tenancy for Landlord's Use. This document provides the name of the tenant (in black ink) as MS. Beside the tenant's surname ("S"), the landlord acknowledges writing in another surname ("F") in blue, making the tenant's full name MSF. The landlord testified that the address of the rental unit is #4. The landlord testified that the rental unit is located on a holly farm. There are 2 cabins and 2 houses on the farm. The tenant's rental unit is one of the cabins. It is unknown whether each of the structures on the property have separate identifiers for addresses.

On the notice to end tenancy, the landlord did not provide his name below where the document states *"full names are required"*. Below the landlord's address, where the form states, *"I, the landlord, give you two months' notice to move out of the rental unit located at:"* ... the landlord provides the same address as his own – located in a different town.

In testimony, the landlord's accountant testified that she mistakenly forgot to provide the landlord's name on the form and accidentally filled in the landlord's address in the spot where she was supposed to fill in the address of the rental unit.

Analysis

I find the 2 Month Notice to End Tenancy for Landlord's Use was duly served upon the tenant on March 14, 2022, the day it was personally served upon him pursuant to sections 88 and 90 of the Act. The tenant filed his application to dispute the notice within the 15 days as required by section 49 of the Act.

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] and, in the case of a notice under subsection (5), must contain the name and address of the purchaser who asked the landlord to give the notice.

Section 52 reads as follows:

Form and content of notice to end tenancy

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.*

Neither party provided pages 2, 3, or 4 of the 4-page 2 Month Notice to End Tenancy for Landlord's Use (form RTB-32) as evidence for my consideration. As such, I am unable to verify whether all pages of the document were served upon the tenant, or what information was completed on page 2. The reason for ending the tenancy is unknown to me.

Although the landlord had the opportunity to provide this evidence up to 7 days prior to the hearing in accordance with rule 3.15 of the rules of procedure, the landlord did not exercise this option. I could not accept the landlord's offer to upload it after the commencement of the hearing pursuant to 3.17 of the rules as I determined it would be prejudicial to the tenant to allow it in as late evidence, being in the landlord's possession since March 14th.

Further, it is unclear to me what the tenant's actual name is. The landlord testified that the name on the tenancy agreement is MS, yet the notice to end tenancy is addressed to MSF, based on information gathered from the tenant's neighbour. The landlord was not prepared to provide corroborative evidence to satisfy me the identity of the person he is trying to evict.

Moreover, the landlord did not provide his own name on the form where the landlord's name is a required field. I find the landlord's failure to provide the tenant with his name to be critically important on a notice to end tenancy as it identifies who to name on a dispute to when seeking to dispute the notice to end tenancy.

Lastly, the landlord's notice to end tenancy provides an incorrect address for the rental unit. Whereas the landlord correctly provides the address as "*the address where documents will be given personally, left for, faxed or mailed to...*", the landlord provided an incorrect address when identifying the rental unit that the tenant must move out of. I

find that this error is fatal to the validity of the landlord's notice. Here, I must also point out that I am still unclear as to how each of the 2 cabins and the 2 houses on the property are individually identified for service by registered mail if the landlord were to choose that method of service.

For the foregoing reasons, I find that the notice to end tenancy does not comply with the form and content provision as set out in section 52 of the Act. Consequently, I cancel it and find it of no force or effect. This tenancy shall continue until it is ended in accordance with the Act.

Conclusion

The notice to end tenancy is cancelled and of no further force or effect. This tenancy shall continue until it is 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 *Residential Tenancy Act*.

Dated: July 15, 2022

Residential Tenancy Branch