



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL

Introduction

This hearing was convened in response to an application by the Tenants for an order cancelling a notice to end tenancy pursuant to section 47 of the *Residential Tenancy Act* (the “Act”).

The Parties were each given full opportunity under oath to be heard, to present evidence and to make submissions. The Landlord confirmed receipt of the Tenants’ application and evidence. The Tenant confirmed receipt of the Landlord’s evidence. Both Parties confirmed that they were not using a recording device for the hearing.

Issue(s) to be Decided

Did the Landlord give or serve the Tenants a notice to end tenancy?
Are the Tenants entitled to a cancellation of a notice to end tenancy?

Background and Evidence

The following are agreed facts: the tenancy under written agreement started on February 1, 2016. At the outset of the tenancy the Landlord collected \$1,000.00 as a security deposit. Rent of \$2,028.00 is payable on the first day of each month.

The Tenant states that they received an email from the Landlord sometime in March 2022 informing the Tenants that they had to move out of the unit but that no reason was

provided. The Tenant states that the email asked the Tenants to call the Landlord about the end of the tenancy. The Tenant did not provide a copy of the email. The Tenant states that they never provided authorization to the Landlord for using their email address for service of documents.

The Landlord states that the Tenants had provided their email address to the Landlord and that the Landlord used it for sending utility bills to the Tenants. The Landlord did not provide a copy of any notice to end tenancy and no copy of the email informing the Tenants of the end of the tenancy for this hearing. The Landlord states that after sending the email the Parties had several discussions about the end of the tenancy.

Analysis

Section 49(2) of the Act provides that a landlord may end a tenancy for landlord's use by giving notice to end the tenancy. Section 88 of the Act provides that all documents, other than those referred to in section 89 [*special rules for certain documents*], that are required or permitted under this Act to be given to or served on a person **must be given or served** in one of the following ways:

- (a) by leaving a copy with the person;
- (b) if the person is a landlord, by leaving a copy with an agent of the landlord;
- (c) by sending a copy by ordinary mail or registered mail to the address at which the person resides or, if the person is a landlord, to the address at which the person carries on business as a landlord;
- (d) if the person is a tenant, by sending a copy by ordinary mail or registered mail to a forwarding address provided by the tenant;
- (e) by leaving a copy at the person's residence with an adult who apparently resides with the person;
- (f) by leaving a copy in a mailbox or mail slot for the address at which the person resides or, if the person is a landlord, for the address at which the person carries on business as a landlord;

(g)by attaching a copy to a door or other conspicuous place at the address at which the person resides or, if the person is a landlord, at the address at which the person carries on business as a landlord;

(h)by transmitting a copy to a fax number provided as an address for service by the person to be served;

(i)as ordered by the director under section 71 (1) [*director's orders: delivery and service of documents*];

(j)by any other means of service provided for in the regulations.

Section 43(1) of the Act provides that for the purposes of section 88 (j) [*how to give or serve documents generally*] of the Act, the documents described in section 88 of the Act may be given to or served on a person by emailing a copy to an email address provided as an address for service by the person. Ending a tenancy is a serious matter and the Landlord must ensure that the Act is followed for ending a tenancy. Based on the undisputed evidence that the Landlord sent a notice to end tenancy to the Tenants by email and based on the undisputed evidence that the Tenants did not provide the Landlord with their email address specifically for service of documents I find on a balance of probabilities that the Landlord did not give or serve the Tenants a notice to end tenancy as required under the Act. The notice to end tenancy contained in the email in March 2022 is therefore cancelled and the tenancy continues.

Conclusion

The notice to end tenancy is cancelled and the tenancy continues.

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: August 29, 2022

Residential Tenancy Branch