



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

The Tenant applies to cancel a One-Month Notice to End Tenancy signed on April 26, 2022 (the “One-Month Notice”) pursuant to s. 47 of the *Residential Tenancy Act* (the “Act”).

L.E. appeared as the Tenant. Z.P. appeared as the Landlord. K.S., J.R., and R.H. appeared at the beginning of the hearing as witnesses for the Landlord. The Landlord’s witnesses were not called and did not provide evidence.

The parties affirmed to tell the truth during the hearing. I advised of Rule 6.11 of the Rules of Procedure, in which the participants are prohibited from recording the hearing. The parties confirmed that they were not recording the hearing. I further advised that the hearing was recorded automatically by the Residential Tenancy Branch.

The parties advise that they served their application materials on the other side. Both parties acknowledge receipt of the other’s application materials without objection. Based on the mutual acknowledgments of the parties without objection, I find that pursuant to s. 71(2) of the *Act* that the parties were sufficiently served with the other’s application materials.

Cancelling the One-Month Notice

The Landlord advised that the One-Month Notice was issued following a series of interactions between the Tenant, K.S. and J.R., and a neighbouring landowner. The Landlord advised that he had previously served a one-month notice to end tenancy on

the Tenant (the “Previous Notice”) and that that Previous Notice had been successfully cancelled by the Tenant. The Landlord provided the file number with respect to that previous dispute, which indicates that the Tenant’s previous application was heard on March 4, 2022 and the decision rendered on April 4, 2022.

Review of the other matter shows that the Previous Notice was signed on September 27, 2021 and it detailed essentially the same grounds as those listed in the One-Month Notice. The April 4, 2022 decision cancelled the Previous Notice partially on the basis that the Tenant and K.S., though they share the same Landlord, live on separate properties. The Landlord confirmed the separate addresses for the two properties and that he was Landlord to the Tenant and K.S..

There are two issues with the One-Month Notice. First, I find that most of the basis for the causes listed in the One-Month Notice have already been adjudicated in the previous decision such that the doctrine of *res judicata* applies. It is inappropriate for the Landlord to have issued the One-Month Notice, which is essentially repacked the circumstances that were found to have been insufficient to justify ending the tenancy. These aspects of already been decided.

Secondly, as made clear in the April 4, 2022 decision, the grounds for ending the tenancy relate to a dispute between the Tenant and K.S., who live on neighbouring properties. The One-Month Notice includes new allegations regarding the Tenant’s conduct toward another neighbour. The grounds listed in the One-Month Notice (ss. 47(1)(d)(i), 47(1)(d)(ii), and 47(1)(e)(ii)) are intended to protect the rights of landlords and other occupants to the use of the common property and/or their rental units. The *Act* does not protect the interest of third parties to a tenancy agreement unless those individuals have a right to the use of a shared property. The *Act* calls shared or common property “residential property”, which is defined under s. 1. Despite this point being made clear in the April 4, 2022 decision, the One-Month Notice was issued again pertaining to disputes between the Tenant and his neighbours. These types of disputes are not justiciable under the *Act*.

I find that the One-Month Notice ought to be cancelled both on the basis of the doctrine of *res judicata* and on the basis that the disputes between the Tenant and his neighbours are not justiciable under the *Act*. The One-Month Notice is of no force or effect. The 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: August 29, 2022

Residential Tenancy Branch