



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **CNC, FFT**

Introduction

This hearing dealt with an application by the tenant pursuant to the Residential Tenancy Act ("Act") for orders as follows:

- cancellation of the landlords' One Month Notice to End Tenancy for Cause ("One Month Notice") pursuant to section 47
- reimbursement of the filing fee pursuant to section 72

Both parties attended the hearing with the landlord represented by an agent BA, while the tenant was represented by tenant KF.

Both parties confirmed they were not recording the hearing pursuant to Rule of Procedure 6.11. The parties were affirmed.

The tenant confirmed receipt of the One Month Notice dated May 31, 2022. Pursuant to section 88 of the Act the tenant is found to have been served with this notice in accordance with the Act. The landlord acknowledged receipt of the tenant's dispute notice and evidentiary package dated May 31, 2022. The tenant also acknowledged receipt of the landlord's materials. I find service is established in accordance with sections 88 and 89 of the Act.

Issues to be Decided

1. Can the tenant cancel the One Month Notice for Cause? If not, is the Landlord entitled to an Order of Possession?
2. Is the tenant entitled to reimbursement for filing fees?

Background and Evidence

A tenancy for the subject rental property commenced on August 1, 2021, for a fixed term of 12 months ending July 31, 2022. Rent was \$2,250.00 per month, due and payable on the first of each month. Three tenants, TF, RD, and KF signed the tenancy agreement.

The landlord's agent, BA stated that on May 30, 2022, tenant TF gave notice by email to the landlord to end the tenancy effective May 31, 2022. This date was prior to the expiry of the term of the tenancy (July 31, 2022). Based on that notice the landlord did not wish to continue the tenancy of KF and therefore served him with the One Month Notice. The landlord did not check a box on page 2 of the notice indicating the reason notice was served, instead he completed a detailed description in the lower half of page 2 in the area marked "Details of the Event(s)". The landlord referred to RTB Policy Guideline 13 and takes the position that the guideline means that the notice given by TF also ends the tenancy of KF.

The tenant stated that he is the only tenant remaining in the subject rental property and wishes to remain in the residence. He submitted that the grounds to end the tenancy were not checked off in the boxes provided on the form. He acknowledged however that grounds were explained in writing in another space on the form and he understood the grounds for the One Month Notice. He also submitted that the lease was vague and he was unsure about the reference in the One Month Notice to TF as a "tenant in common". He stated that the tenancy agreement did not contain that term, however he acknowledged that three people, including himself had signed the tenancy agreement. The tenancy agreement was produced in evidence.

Analysis

Section 52 of the Act requires that a notice to end tenancy contain several factors which must be included in its form and content, these include the grounds upon which the One Month Notice is issued.

Section 52 notes:

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,

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

I find that none of the boxes containing specific grounds were checked off. While the notice did contain the reason to end the tenancy written in another space on the form, I find this does not comply with the requirements of section 52 listed above.

The One Month notice issued under section 47 of the Act is only valid based on one or more of the grounds enumerated within section 47. The boxes provided on the approved form correspond to those grounds. Those are the only grounds available to the landlord to issue a One Month Notice.

The landlord's submission that once another tenant has ended the tenancy by a valid notice, that tenancy is ended for all tenants. The landlord is open to pursue other avenues to end the tenancy with KF, but those issues were not before me by way of an application by the landlord.

The One Month Notice does not comply with section 52(d) of the Act because it does not list a valid ground to end the tenancy. I find that the One Month Notice does not comply with section 52 of the Act and is therefore not valid and enforceable. The One Month Notice is cancelled.

As the tenant was successful in his application, I order the return of the filing fee.

Conclusion

The One Month Notice dated May 31, 2022, is cancelled. The tenancy shall continue until it is ended in accordance with the Act. The tenant is entitled to reimbursement of the filing fee of \$100.00 which he can withhold from a future month's rent on **ONE** occasion.

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: October 05, 2022

Residential Tenancy Branch