



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

Landlord's application: OPC FFL
Tenant's application: CNL FFT

Introduction

This hearing was scheduled in response to an Application for Dispute Resolution (application) by both parties (cross-application) seeking remedy under the *Residential Tenancy Act* (Act). The tenant applied to cancel a 2 Month Notice to End Tenancy for Landlord's Use of Property dated July 25, 2022 (2 Month Notice) and to recover the cost of the filing fee. The landlord applied for an order of possession based on an undisputed 2 Month Notice and to recover the filing fee.

The tenant, landlord PK (landlord) and a support person for the landlord, HG (support) attended the teleconference hearing. At the start of the hearing, I introduced myself and the participants and the parties were given an opportunity to ask questions. The parties were provided with the opportunity to submit documentary evidence prior to this hearing, to present affirmed oral testimony evidence and to make submissions to me. Words utilizing the singular shall also include the plural and vice versa where the context requires.

I will address all services issues later in this decision.

Preliminary and Procedural Matter

The parties confirmed their respective email addresses at the outset of the hearing and stated that they understood that the decision would be emailed to them.

Issues to be Decided

- Should the 1 Month Notice be cancelled or upheld?
- Is either party entitled to the filing fee?

Background and Evidence

A copy of the tenancy agreement was submitted in evidence. A month-to-month tenancy began on October 1, 2020. The monthly rent is \$2,800 and is due on the first day of each month.

The 2 Month Notice was submitted in evidence and was not signed by the landlord. It is dated July 25, 2022 and has an effective vacancy date of September 30, 2022. The tenant writes in their application that they received the 2 Month Notice on July 31, 2022 in person and applied to dispute the 2 Month Notice on August 2, 2022.

The landlord denied being served with the tenant's application as the tenant incorrectly named the landlord in their application and as a result, the landlord was not served with the tenant's application. Regardless, the parties were advised that I would be dismissing the 2 Month Notice based on the landlord's application only as the 2 Month Notice did not comply with section 52 of the Act as the landlord failed to sign the 2 Month Notice, which I will address further below.

Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on the balance of probabilities, I find the following.

Section 52 of the Act applies and states:

Form and content of notice to end tenancy

52 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.
[emphasis added]

Given the above, I find that the landlord's failure to sign the 2 Month Notice fails to comply with section 52 of the Act. Therefore, I cancel the 2 Month Notice as the 2 Month Notice is not effective given the failure on the part of the landlord to fully complete the 2 Month Notice.

I find the 2 Month Notice dated July 25, 2022 is of no force or effect.

I do not grant either party the filing fee due to a service issue on the part of the tenant, and that the landlord's failed to sign the 2 Month Notice.

The tenancy shall continue until ended in accordance with the Act.

Conclusion

Both applications fail in their entirety. The 2 Month Notice is cancelled due to the landlord failing to comply with section 52 of the Act.

Neither filing fee is granted. This decision will be emailed to both parties as indicated above.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: January 13, 2023

Residential Tenancy Branch