



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, LRE, OLC

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the *Act*) for

- cancellation of the One Month Notice to End Tenancy for Cause (the "Notice"), pursuant to section 47,
- an Order for the landlord's right of entry to be restricted, pursuant to section 70, and
- an Order for the landlord to comply with the *Act*, pursuant to section 62 of the *Act*.

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 9:40 a.m. in order to enable the tenant to call into this teleconference hearing scheduled for 9:30 a.m. The landlord and the landlord's son attended the hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord, the landlord's son and I were the only ones who had called into this teleconference.

The landlord's son confirmed the landlord's email address for service of this Decision.

Preliminary Issue- Amendment

The landlord's son testified that the tenant switched the landlord's first and last name in this application for dispute resolution. Pursuant to section 64 of the *Act*, I amend the tenant's application for dispute resolution to correctly state the landlord's first and last name.

Preliminary Issue- Failure to Attend

Rule 7 of the Residential Tenancy Branch Rules of Procedure provides in part as follows:

The dispute resolution hearing will commence at the scheduled time unless otherwise set by the arbitrator. If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.

The tenant failed to attend this hearing. Pursuant to Rule 7 of the Residential Tenancy Branch Rules of Procedure, I dismiss the tenant's application without leave to reapply.

Preliminary Issue- Invalid Notice

Section 55(1) of the *Act* states that if the landlord's notice to end tenancy complies with section 52 [*form and content of notice to end tenancy*], and the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice, the director must grant the landlord an order of possession.

The landlord did not enter into evidence a copy of the Notice. The landlord's son testified that the landlord served the only copy of the Notice on the tenant and did not retain a copy for her records.

The tenant entered into evidence a blurry photograph of page one of the Notice. The Notice is not signed by the landlord and is on an old RTB form. The landlord testified that she signed the Notice.

Based on the only copy of the Notice before me, I find, on a balance of probabilities, that the landlord did not sign the Notice.

Section 52 of the *Act* states that 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.

I find that the Notice is invalid because it was not signed by the landlord and is not in the approved current form. As the Notice does not comply with section 52 of the *Act*, I find that I am unable to provide the landlord with an Order of Possession.

Conclusion

The tenant's application for dispute resolution is dismissed without leave to reapply.

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: January 30, 2023

Residential Tenancy Branch