



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR LRE

This hearing dealt with the tenant's Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (Act) to cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated August 2, 2022 (10 Day Notice) and to suspend or set conditions on the landlord's right to enter the rental unit.

The tenant attended the teleconference hearing. As the landlord did not attend the hearing, service of the Notice of a Dispute Resolution Hearing dated August 18, 2022 (Notice of Hearing), application and documentary evidence (Hearing Package) was considered. The tenant testified that the Hearing Package was served on the landlord by personal service to the wife of the landlord and that the wife of the landlord accepted the Hearing Package at 3:30 p.m. on August 19, 2022. Based on the evidence before me, I find the landlord was served as of August 19, 2022. As the landlord did not attend the hearing and according to Residential Tenancy Branch (RTB) Rules of Procedure (Rules) 7.3 and 7.4, the hearing continued without the landlord present. I find the landlord is unopposed to this application by failing to attend although served.

The tenant provided affirmed testimony, was provided the opportunity to present his evidence orally and in documentary form prior to the hearing and make submissions to me. Words utilizing the singular shall also include the plural and vice versa where the context requires.

RTB Rule 2.3 authorizes me to dismiss unrelated disputes contained in a single application. In this circumstance the tenant indicated two matters of dispute on the application, the most urgent of which is the application to cancel a notice to end tenancy. I find that not all the claims on the application are sufficiently related to be determined during this proceeding. I will, therefore, only consider the tenant's request to cancel a notice to end tenancy at this proceeding. The balance of the tenant's application is dismissed, with leave to re-apply.

Issue to be Decided

- Should the 10 Day Notice be cancelled?

Background and Evidence

A copy of the 10 Day Notice was submitted in evidence. The 10 Day Notice was dated August 2, 2022 and was not on the current approved form as required by section 52 of the Act. The tenant stated that they were served with the 10 Day Notice on August 2, 2022 in person and applied to dispute the 10 Day Notice the next day on August 3, 2022.

Analysis

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

10 Day Notice issued by landlord – 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]

I have reviewed the 10 Day Notice and find that it was not on the approved form and instead the landlord has issued an outdated form on the tenant, which I cancel as it does not comply with section 52 of the Act. I find the 10 Day Notice dated August 2, 2022 is of no force or effect.

I ORDER the tenancy to continue until ended in accordance with the Act pursuant to section 62(3) of the Act.

As the filing fee was waived, it is not granted.

Conclusion

The tenant's application is fully successful.

The 10 Day Notice dated August 2, 2022 issued by the landlord is cancelled and is of no force or effect.

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

This decision will be emailed to the tenant and send by regular mail to the landlord.

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 18, 2023

Residential Tenancy Branch