



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with an Application for Dispute Resolution (the Application) filed by the Tenant under the *Residential Tenancy Act* (the Act), on September 20, 2022, seeking:

- Cancellation of a One Month Notice to End Tenancy for Cause (the One Month Notice).

The hearing was convened by telephone conference call at 9:30 AM on February 6, 2023, and was attended by the Tenant, the Tenant's advocate (Advocate), the Landlord, and a witness for the Landlord R.F. (Witness). All testimony provided was affirmed. The Landlord confirmed receipt of the Notice of Dispute Resolution Proceeding (NODRP), including a copy of the Application and the Notice of Hearing, and raised no concerns with regards to service date or method. As a result, the hearing proceeded as scheduled. The parties were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing. The witness was excluded from the proceeding while the parties provided evidence and testimony and was ultimately not called upon to provide testimony.

The parties were advised that pursuant to rule 6.10 of the Rules of Procedure, interruptions and inappropriate behavior would not be permitted and could result in limitations on participation, such as being muted, or exclusion from the proceedings. The parties were asked to refrain from speaking over me and one another and to hold their questions and responses until it was their opportunity to speak. The parties were also advised that personal recordings of the proceeding were prohibited under the Rules of Procedure and confirmed that they were not recording the proceedings.

At the request of the parties, copies of the decision and any orders issued in their favor will be emailed to them at the email addresses confirmed in the hearing.

The One Month Notice submitted for my consideration by the Tenant is not signed and no other copy of the One Month Notice was before me for consideration. As a result, I find that it does not comply with section 52 of the Act and that it was unnecessary to hear evidence and testimony from the parties regarding the grounds upon which it was issued, as this is a fatal flaw and an Order of Possession could not be issued regardless of any finding made about whether the Landlord has grounds under section 47 of the Act to end the tenancy.

I therefore grant the Tenant's Application seeking cancellation of the One Month Notice.

Conclusion

The Tenants' Application seeking cancellation of the One Month Notice is granted. I therefore order that the One Month Notice is of no force or effect and that the tenancy 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 Act.

Dated: February 06, 2023

Residential Tenancy Branch