



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes CNC, CNR, RP, PSF

Introduction

This hearing dealt with cross-applications filed by the Tenant. On November 13, 2022, the Tenant made an Application for Dispute Resolution seeking to cancel a One Month Notice to End Tenancy for Cause (the “Notice”) pursuant to Section 47 of the *Residential Tenancy Act* (the “Act”), seeking a repair Order pursuant to Section 32 of the *Act*, and seeking the provision of services or facilities pursuant to Section 62 of the *Act*.

On December 6, 2022, the Tenant made another Application for Dispute Resolution seeking to cancel a 10 Day Notice to End Tenancy for Unpaid Rent pursuant to Section 46 of the *Act*, seeking a repair Order pursuant to Section 32 of the *Act*, and seeking the provision of services or facilities pursuant to Section 62 of the *Act*.

Both the Tenant and the Landlord attended the hearing. At the outset of the hearing, I explained to the parties that as the hearing was a teleconference, none of the parties could see each other, so to ensure an efficient, respectful hearing, this would rely on each party taking a turn to have their say. As such, when one party is talking, I asked that the other party not interrupt or respond unless prompted by myself. Furthermore, if a party had an issue with what had been said, to please make a note of it and when it was their turn, they would have an opportunity to address these concerns. The parties were also advised that recording of the hearing was prohibited and they were reminded to refrain from doing so. As well, all parties in attendance provided a solemn affirmation.

The Tenant advised that the first Notice of Hearing package was served to the Landlord by hand on or around November 23, 2022, and the Landlord confirmed receiving this

package. Based on this undisputed testimony, I am satisfied that the Landlord has been duly served the Tenant's first Notice of Hearing package.

The Tenant then advised that the second Notice of Hearing package was served to the Landlord by placing it in his mailbox on or around December 7, 2022. The Landlord confirmed receiving this package, and he had no position with respect to the manner with which it was served to him. While this package was not served in a manner in accordance with Section 89 of the *Act*, as the Landlord received this package and did not oppose this manner of service, I am satisfied that the Landlord has been duly served the Tenant's second Notice of Hearing package.

Both the Tenant and the Landlord confirmed that they did not serve their evidence to each other. As such, neither parties' evidence will be accepted or considered when rendering this Decision.

At the outset of the hearing, as per Rule 2.3 of the Rules of Procedure, claims made in an Application must be related to each other, and I have the discretion to sever and dismiss unrelated claims. As such, this hearing primarily addressed the two notices to end tenancy, and the other claims were dismissed with leave to reapply. The Tenant is at liberty to apply for any other claims under a new and separate Application.

All parties were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

I note that Section 55 of the *Act* requires that when a Tenant submits an Application for Dispute Resolution seeking to cancel a notice to end tenancy issued by a Landlord, I must consider if the Landlord is entitled to an Order of Possession if the Application is dismissed and the Landlord has issued a notice to end tenancy that is compliant with the *Act*.

Issue(s) to be Decided

- Is the Tenant entitled to have the notices cancelled?
- If the Tenant is unsuccessful in cancelling the notices, is the Landlord entitled to an Order of Possession?

Background, Evidence, and Analysis

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

The Landlord advised that the tenancy started on February 28, 2022, that rent was established at \$500.00 per month, that it was due on the first day of each month, and that neither a security deposit nor a pet damage deposit were paid. The Landlord did not create a written tenancy agreement as required by the *Act*.

The Tenant agreed with the basic details of the tenancy, with the exception that the tenancy started on February 16, 2022.

The Landlord testified that he served the One Month Notice to End Tenancy for Cause by hand on November 8, 2022, despite it being incorrectly dated December 8, 2022. Regardless, the Landlord confirmed that he did not fill out any information in the Details of Cause section at the bottom of the second page of this notice. As this information is required to be completed so that the Tenant understands the details/reasons for service of this notice, I am satisfied that it is not a valid notice. Ultimately, as a result, the One Month Notice to End Tenancy for Cause served on November 8, 2022, but incorrectly dated December 8, 2022, is cancelled and of no force or effect.

The Landlord then advised that he served the 10 Day Notice to End Tenancy for Unpaid Rent by hand on December 6, 2022, and he confirmed that the notice that he used was from 2007. As the legislation has changed since this notice was effective, a new, approved form has been available with updated information for both the Landlord and Tenant. As this outdated notice does not have any of this relevant information and is not an approved form that complies with Section 52 of the *Act*, I find that the 10 Day Notice to End Tenancy for Unpaid Rent dated December 6, 2022, is also cancelled and of no force or effect.

Conclusion

Based on the above, I hereby Order that the One Month Notice to End Tenancy for Cause of November 8, 2022, to be cancelled and of no force or effect. As well, I hereby Order that the 10 Day Notice to End Tenancy for Unpaid Rent of December 6, 2022, to

be cancelled and of no force or effect. This tenancy will continue until otherwise 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 *Residential Tenancy Act*.

Dated: March 27, 2023

Residential Tenancy Branch