



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with the tenant's application, filed on February 17, 2023, pursuant to the *Residential Tenancy Act* ("Act") for:

- cancellation of the landlord's 2 One Month Notices to End Tenancy for Cause, both dated January 23, 2023, and effective March 15, 2023 ("two 1 Month Notices"), pursuant to section 47.

The landlord did not attend this hearing. The tenant attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

This hearing lasted approximately 15 minutes. This hearing began at 9:30 a.m. and ended at 9:45 a.m. The tenant called in late at 9:33 a.m. I monitored the teleconference line throughout this hearing. 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 tenant and I were the only people who called into this teleconference.

The tenant provided her name and spelling. She provided her email address for me to send a copy of this decision to her after the hearing. She confirmed the name and email address of the landlord.

Rule 6.11 of the Residential Tenancy Branch ("RTB") *Rules of Procedure* ("Rules") does not permit recordings of any RTB hearings by any participants. At the outset of this hearing, the tenant affirmed, under oath, that she would not record this hearing.

I explained the hearing process to the tenant. She had an opportunity to ask questions. She did not make any adjournment or accommodation requests.

The tenant stated that the landlord was served with a copy of the tenant's application for dispute resolution hearing package on February 24, 2023, by way of registered mail. The tenant provided a Canada Post receipt and confirmed the tracking number verbally during this hearing. She said that the mail was sent to the mailing address provided by the landlord on the two 1 Month Notices. The tracking number on the Canada Post website indicates that the mail was delivered and signed for on February 27, 2023. In accordance with sections 89 and 90 of the *Act*, I find that the landlord was deemed served with the tenant's application on March 1, 2023, five days after its registered mailing.

The tenant confirmed that she received the landlord's two 1 Month Notices on February 10, 2023. In accordance with section 88 of the *Act*, I find that the tenant was duly served with the landlord's two 1 Month Notices on February 10, 2023. The tenant stated that the landlord's two 1 Month Notices contain the same date of signing, effective move-out date, and reason for ending this tenancy that the "tenant is repeatedly late paying rent."

Issues to be Decided

Should the landlord's two 1 Month Notices be cancelled? If not, is the landlord entitled to an order of possession?

Analysis

In accordance with section 47(4) of the *Act*, the tenant must file her application for dispute resolution within 10 days of receiving the two 1 Month Notices. In this case, the tenant received the two 1 Month Notices on February 10, 2023, and filed her application to dispute both notices on February 17, 2023. Accordingly, I find that the tenant's application was filed within the 10-day time limit under the *Act*.

Where a tenant applies to dispute the two 1 Month Notices within the time limit, the onus is on the landlord to prove, on a balance of probabilities, the reasons on which both notices are based. The landlord did not appear at this hearing. The landlord did not meet the onus of proof.

Accordingly, the tenant's application to cancel the landlord's two 1 Month Notices is granted. The landlord's two 1 Month Notices, dated January 23, 2023, and effective March 15, 2023, are cancelled and of no force or effect. The landlord is not entitled to

an order of possession, pursuant to section 55 of the *Act*. This tenancy will continue until it is ended in accordance with the *Act*.

I informed the tenant of my decision verbally during this hearing. She affirmed her understanding of same.

Conclusion

The tenant's application to cancel the landlord's two 1 Month Notices is granted.

The landlord's two 1 Month Notices, both dated January 23, 2023, and effective March 15, 2023, are cancelled and of no force or effect.

The landlord is not entitled to an order of possession.

This tenancy continues 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 *Residential Tenancy Act*.

Dated: April 11, 2023

Residential Tenancy Branch