



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding DLF CONSTRUCTION LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNL, OLC, FFT

Introduction

This hearing dealt with the tenant's application, filed on December 14, 2022, pursuant to the *Residential Tenancy Act* ("Act") for:

- cancellation of the landlord's Two Month Notice to End Tenancy for Landlord's Use of Property, dated November 30, 2022 ("2 Month Notice"), pursuant to section 49;
- an order requiring the landlord to comply with the *Act*, *Residential Tenancy Regulation* ("Regulation") or tenancy agreement, pursuant to section 62; and
- authorization to recover the \$100.00 filing fee paid for this application, pursuant to section 72.

The landlord's agent and the tenant attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. This hearing lasted approximately 24 minutes from 9:30 a.m. to 9:54 a.m.

Both parties confirmed their names and spelling. Both parties provided their email addresses for me to send copies of this decision to both parties after this hearing.

The landlord's agent confirmed that he is the sole owner and director of the landlord company ("landlord") named in this application. He provided the legal name of the landlord. He said that the landlord owns the rental unit. He provided the rental unit address.

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, both parties separately affirmed, under oath, that they would not record this hearing.

The landlord's agent affirmed that he did not require an English language translator at this hearing. He said that he did not arrange for a translator to attend, prior to this hearing. He said that he could understand me and speak English. He asked me to speak slowly, which I did. I repeated and rephrased information to him throughout this hearing.

I explained the hearing and settlement processes, and the potential outcomes and consequences, to both parties. They had an opportunity to ask questions. They did not make any adjournment or accommodation requests.

Both parties confirmed that they did not want to settle this application, they wanted to proceed with this hearing, and they wanted me to make a decision. Both parties were given multiple opportunities to settle this application and declined to do so.

I repeatedly cautioned the tenant that if I dismissed his application without leave to reapply, I could uphold the landlord's 2 Month Notice, end his tenancy, and issue a two (2) day order of possession against him. The tenant repeatedly affirmed that he was prepared for the above consequences if that was my decision.

I repeatedly cautioned the landlord's agent that if I cancelled the landlord's 2 Month Notice, I could not issue an order of possession to the landlord against the tenant, and this tenancy would continue. The landlord's agent repeatedly affirmed that the landlord was prepared for the above consequences if that was my decision.

The landlord confirmed receipt of the tenant's application for dispute resolution hearing package. In accordance with section 89 of the *Act*, I find that the landlord was duly served with the tenant's application.

The tenant confirmed receipt of the landlord's 2 Month Notice. In accordance with section 88 of the *Act*, I find that the tenant was duly served with the landlord's 2 Month Notice.

Pursuant to section 64(3)(c) of the *Act*, I amend the tenant's application to include the full legal name of the landlord. Both parties consented to this amendment during this hearing. I find no prejudice to either party in making this amendment.

Issues to be Decided

Should the landlord's 2 Month Notice be cancelled? If not, is the landlord entitled to an order of possession?

Analysis

In accordance with section 49(8)(a) of the *Act*, the tenant must file his application for dispute resolution within 15 days of receiving the 2 Month Notice. In his application, the tenant indicated that he received the notice on November 30, 2022. The tenant filed this application to dispute the notice on December 14, 2022. Accordingly, I find that the tenant's application was filed within the 15-day time limit under the *Act*.

Where a tenant applies to dispute a 2 Month Notice, the onus is on the landlord to prove, on a balance of probabilities, the grounds on which the 2 Month Notice is based.

The landlord's agent confirmed that he did not indicate an effective move-out date on page 1 of the 2 Month Notice. He did not explain why he did not indicate this date. He said it was just a two month's notice and he had verbal discussions with the tenant. For the above reason, I find that the landlord's 2 Month Notice does not comply with section 52(c) of the *Act*, as an effective date must be included on the notice.

Accordingly, the landlord's 2 Month Notice, dated November 30, 2022, is 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 both parties of my decision during this hearing. They both affirmed their understanding of same.

The tenant confirmed that he did not require an order to comply with the *Act*, Regulation or tenancy agreement, as per his application. This claim is dismissed without leave to reapply.

The landlord's agent agreed to reimburse the tenant for the cost of the \$100.00 filing fee paid for this application. He agreed to reduce the tenant's monthly rent, payable to the landlord on May 1, 2023, for this rental unit and tenancy, by \$100.00, on a one-time basis only. The tenant agreed to same.

Conclusion

The tenant's application to cancel the landlord's 2 Month Notice is granted.

The landlord's 2 Month Notice, dated November 30, 2022, is 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*.

I order the tenant to reduce his monthly rent, payable to the landlord on May 1, 2023, for this rental unit and tenancy, by \$100.00, on a one-time basis only, in full satisfaction of the monetary award for the \$100.00 filing fee.

The tenant's application for an order requiring the landlord to comply with the *Act*, *Regulation* or tenancy agreement, 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: April 24, 2023

Residential Tenancy Branch