



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing

A matter regarding CENTENNIAL PARK APARTMENTS
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

This dispute related to the tenant's Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (Act) for the following:

1. Cancel a 1 Month Notice to End Tenancy for Cause dated January 31, 2023 (1 Month Notice).

The parties listed on the cover page of this decision attended the teleconference hearing. The hearing process was explained to the parties and an opportunity was given to ask questions about the hearing process. Thereafter the parties gave affirmed testimony and were provided the opportunity to present their 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.

As both parties confirmed having received documentary evidence from the other party and that they had the opportunity to review that evidence prior to the hearing, I find the parties were sufficiently served in accordance with the Act.

Preliminary and Procedural Matters

The parties confirmed their email addresses at the start of the hearing. The parties were advised that the decision will be sent to the parties via email.

Issue to be Decided

- Should the 1 Month Notice be set aside?

Background and Evidence

A copy of the tenancy agreement was submitted in evidence. The tenancy began on June 1, 2021.

Although dogs were not permitted in the original tenancy agreement, the landlord granted permission for the tenant to have a dog as of July 14, 2022, when the tenant also paid a \$650 pet damage deposit. This was confirmed by the parties during the hearing.

The tenant confirmed that they received the 1 Month Notice on January 31, 2023. The tenant disputed the 1 Month Notice on February 3, 2023, which is within the 10-day timeline provided for under the Act to dispute the 1 Month Notice. The landlord listed the following causes on the 1 Month Notice:



Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

The Details of Cause(s) portion of the 1 Month Notice reads as follows:

Details of Cause(s): Describe what, where and who caused the issue and include dates/times, names etc. This information is required. An arbitrator may cancel the notice if details are not provided.

Details of the Event(s):

Tenant had gotten a dog without permission. He was allowed to keep the dog as long and he cleaned up after the pet outside of the unit and throughout the building where the dog would be going. Tenant has failed to keep the area clear of pet hair.

During the hearing the agent admitted that they sent a letter on October 27, 2022 (October Letter) advising that the tenant must no longer have their dog residing with them as of November 10, 2022. The agent was asked if the tenant was advised in writing giving the tenant reasonable time to correct the alleged breach of dog fur in the hallway outside of the rental unit before sending the October Letter. The agent replied that they did not give the tenant notice in writing before issuing the October Letter.

At this point in the hearing, the parties were advised that the 1 Month Notice was cancelled, which I will address in detail below.

Analysis

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

When a tenant disputes a 1 Month Notice on time, which the tenant did in this matter, the onus of proof reverts to the landlord to prove that the 1 Month Notice is valid and should be upheld. If the landlord fails to prove the 1 Month Notice is valid, the 1 Month Notice will be cancelled. In this matter, the agent admitted that they did not provide written notice to correct an alleged breach of a material term, dog fur in the hallway, and instead, proceeded directly to ordering the removal of the dog in the October Letter. I find this is inconsistent with the cause listed on the 1 Month Notice. Given that there was no written warning letter before ordering the removal of the dog, I find the 1 Month Notice must fail.

In the future, if the landlord intends to rely on this cause, the landlord must warn the tenant of what the term of the written tenancy agreement is that constitutes a material term while **providing a reasonable time to correct that breach**. The landlord failed to do that and as such, I find the landlord has failed to prove that the 1 Month Notice was valid. Therefore, I set aside the 1 Month Notice, which is now 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 tenant did not apply for their filing fee, it is not granted.

Conclusion

The tenant's application is successful. The 1 Month Notice is cancelled and is of no force or effect. This decision will be emailed to both parties. The tenancy shall continue until ended in accordance with the Act.

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: May 30, 2023

Residential Tenancy Branch