



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes **CNL-4M, LRE, OLC, FFT**

Introduction

This hearing dealt with the Tenant's application pursuant to the *Residential Tenancy Act* (Act) for:

1. Cancellation of the Landlord's Four Months' Notice to End Tenancy for Demolition or Conversion of a Rental Unit (the "Four Months' Notice") under Section 49(6) of the Act;
2. An Order to suspend or set conditions on the Landlord's right to enter the rental unit under Section 70 of the Act;
3. An Order for the Landlord to comply with the Act, regulations, and tenancy agreement under Section 62(3) of the Act; and,
4. Recovery of the application filing fee under Section 72 of the Act.

The hearing was conducted via teleconference. The Tenant attended the hearing at the appointed date and time. The Landlord called in approximately four and a half minutes after the hearing began. Each party was each given a full opportunity to be heard, to present affirmed testimony, to call witnesses, and make submissions.

Both parties were advised that Rule 6.11 of the Residential Tenancy Branch (RTB) Rules of Procedure prohibits the recording of dispute resolution hearings. Both parties testified that they were not recording this dispute resolution hearing.

Both parties acknowledged receipt of:

- the Landlord's Four Months' Notice personally served on January 29, 2023, the Tenant confirmed receipt of three of four pages, served on January 29, 2023;

- the Tenant's Notice of Dispute Resolution Proceeding package and evidence served by registered mail on March 3, 2023, Canada Post Tracking Number on cover sheet of decision, the Landlord confirmed receipt, deemed served on March 8, 2023; and,
- the Landlord's evidence package personally served on May 8, 2023, the Tenant confirmed receipt on May 8, 2023, served on May 8, 2023.

Pursuant to Sections 88, 89 and 90 of the Act, I find that both parties were duly served with all the documents related to the hearing in accordance with the Act.

Preliminary Matter

Unrelated Claims

Prior to the parties' testifying, I advised them that RTB Rules of Procedure 2.3 authorizes me to dismiss unrelated claims contained in a single application. The Tenant had indicated different matters of dispute on the application, the most urgent of which is the claim to cancel the Four Months' Notice. I advised that not all the claims on the application are sufficiently related to be determined during this proceeding; therefore, I will consider only the Tenant's request to cancel the Four Months' Notice and the claim for recovery of the application filing fee at this proceeding. The Tenant's other claims are dismissed with leave to re-apply.

Issues to be Decided

1. Is the Tenant entitled to cancellation of the Landlord's Four Months' Notice?
2. If the Tenant is unsuccessful, is the Landlord entitled to an Order of Possession?
3. Is the Tenant entitled to recovery of the application filing fee?

Background and Evidence

I have reviewed all written and oral evidence and submissions presented to me; however, only the evidence and submissions relevant to the issues and findings in this matter are described in this decision.

The Tenant testified that this periodic tenancy began on August 11, 2020. Monthly rent is \$550.00 payable on the fifteenth day of each month. A security deposit of \$275.00 was collected at the start of the tenancy and is still held by the Landlord.

The Landlord did not check off a reason to end the tenancy on the Four Months' Notice. In the box 'The work I am planning to do is detailed in the table below:', the Landlord wrote, "No Permit. I Remove The R.V. Trailer and sell to Face Book." The effective date on the Four Months' Notice was June 15, 2023.

Analysis

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim. Where a tenant applies to dispute a notice to end a tenancy issued by a landlord, the onus is on the landlord to prove, on a balance of probabilities, the grounds on which the notice to end tenancy were based.

The Landlord's Four Months' Notice was served on January 29, 2023. The notice did not include the grounds for ending the tenancy. Section 52 of the Act states:

Form and content of notice to end tenancy

52 *In order to be effective, a notice to end a tenancy must be in writing and must*

- (a) be signed and dated by the landlord or tenant giving the notice,*
- (b) give the address of the rental unit,*
- (c) state the effective date of the notice,*
- (d) except for a notice under section 45 (1) or (2) [tenant's notice], state the grounds for ending the tenancy,*
- (d.1) for a notice under section 45.1 [tenant's notice: family violence or long-term care], be accompanied by a statement made in accordance with section 45.2 [confirmation of eligibility], and*
- (e) when given by a landlord, be in the approved form.*

The Four Months' Notice does not state the grounds for ending the tenancy. The Landlord stated he is being bothered by city officials who are threatening fines, and he just does not want the trailer on his property anymore.

It is the Landlord's burden to prove, on a balance of probabilities, the grounds on which the notice to end tenancy were based. The Tenant received only three pages of a four-page notice. I find that the Landlord's Four Months' Notice does not comply with the form and content requirements of Section 52 of the Act. I find that the Landlord has not met his burden and I cancel the Four Months' Notice. The tenancy will continue until ended in accordance with the Act.

As the Tenant is successful in her claim, she is entitled to recovery of the application filing fee. The Tenant may, pursuant to Section 72(2)(a) of the Act, withhold \$100.00 from one month's rent due to the Landlord.

Conclusion

The Tenant's application to cancel the Landlord's Four Months' Notice is granted.

The Tenant may withhold \$100.00 from one month's rent to recover her application filing fee.

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: June 06, 2023

Residential Tenancy Branch