



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes CNL, OLC, FF

Introduction, Preliminary and Procedural Matters-

This hearing convened to deal with the tenants' application for dispute resolution (application) seeking remedy under the Residential Tenancy Act (Act). The tenants applied for an order cancelling the Two Month Notice to End Tenancy for Landlord's Use of Property (Notice/2 Month Notice) issued by the landlord, an order requiring the landlord to comply with the Act, regulations, or tenancy agreement, and recovery of the filing fee.

The tenants and the landlord's daughter/agent attended, the hearing process was explained, and they were given an opportunity to ask questions about the hearing process. All parties were affirmed.

The agent denied the landlord received the tenants' application for dispute resolution, evidence, and notice of hearing (NODRP). The tenant testified they sent the landlord the NODRP by registered mail. The tenants provided the Canada Post tracking number and during the hearing, I confirmed on the Canada Post website the registered mail was sent and subsequently, the mail was returned after being uncollected.

I find the tenants submitted sufficient evidence that they served the landlord with their NODRP under section 89(1) of the Act.

The agent confirmed that they received the notice of hearing by email from the Residential Tenancy Branch (RTB).

I also find it necessary to deal with the primary issue in this dispute, which is cancellation of the Notice. I find the tenants' secondary request for an order requiring the landlord to comply with the Act is unrelated. I therefore sever this request from the

tenants' application, and it is **dismissed, with leave to reapply**. However, in reading the tenants' application for this issue, it appears that this request is related to the primary issue as it further explained why they believed the landlord did not intend on having his daughter occupy the rental unit.

Leave to reapply is not an extension of any applicable time limit.

I have reviewed all oral, written, and other evidence before me that met the requirements of the RTB Rules of Procedure (Rules).

Words utilizing the singular shall also include the plural and vice versa where the context requires.

Issue(s) to be Decided

Should the 2 Month Notice be cancelled?

Are the tenants entitled to recovery of the filing fee?

Background and Evidence

The tenant submitted there was no written tenancy agreement and the tenancy began on March 1, 2011, for a monthly rent of \$800.

The evidence filed by the tenant was page 1 and page 2 of the 4-page 2 Month Notice.

In response to my inquiry, the tenant said they were served the partial copy of the landlord's 2 Month Notice by personal service. The tenant denied receiving the 3rd and 4th pages of the 2 Month Notice and the agent initially said the tenants were served 2 pages and then said the pages must have been double-sided.

I asked the tenant if they had the Notice before them, they did, and I then asked if the pages had the information on the opposite side. The tenant said the backs of the 2 pages were blank.

Analysis

Section 49 of the Act provides that a landlord may end a tenancy for landlord's use, under certain circumstances listed. Section 49(7) requires that the 2 Month Notice must comply with section 52 *[form and content of notice to end tenant]*.

In the matter before me, I find the landlord's Notice was not in the approved form as the approved form is a 4-page Notice. I find the tenants' evidence is consistent that they were served only the first 2 pages of the Notice. I find the agent's testimony became inconsistent when questioned further.

Tenancy Policy Guideline 18 states that an arbitrator may not amend a form which does not contain the required information.

The Act requires that notices to end tenancy issued by the landlord be in the approved form due to the fact that the approved form contains all of the required information, including compensation in this case, for a tenant.

As there was insufficient evidence that the landlord served the full form as legally required, I find they did not meet the statutory requirements under section 52 the Act as to form and content and I therefore find the Notice is invalid. As I have found the form invalid, I do not have to consider the reason listed by the landlord for ending the tenancy.

As a result, I **order** the landlord's 2 Month Notice to End Tenancy for Landlord's Use of Property, dated March 31, 2023, be **cancelled** and has no force and effect. I **order** that the tenancy will continue until ended in accordance with the Act.

As the tenants' application was successful, I grant the tenants recovery of the \$100 filing fee. I **authorize** the tenants a one-time rent reduction in the amount of **\$100** from a future month's rent in full satisfaction of the recovery of the cost of the filing fee. The tenants should inform the landlord when making this deduction so that the landlord has no grounds to serve a 10 Day Notice in that event.

Conclusion

The tenants' application is successful. The partial 2 Month Notice dated March 31, 2023 issued by the landlord is cancelled and is of no force or effect.

The tenancy shall continue until ended in accordance with the Act.

The tenants were granted the 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 *Residential Tenancy Act*. Pursuant to section 77(3) of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: July 14, 2023

Residential Tenancy Branch