



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, LRE, LAT, OLC

Introduction

The tenants applied to the Residential Tenancy Branch [the 'RTB'] for Dispute Resolution. The tenants ask me for the following orders against the landlords.

1. Cancellation of a 10-day Notice to End Tenancy, issued on or about 17 May 2023 [the 'Notice'].
2. Suspension of landlords' right to enter the rental unit [the 'Entry Claim']
3. Authorization to change the locks of the rental unit [the 'Locks Claim'];
4. Compliance with the *Residential Tenancy Act* [the 'Act'] or tenancy agreement.

The landlords also applied to the RTB for Dispute Resolution. The landlords ask me for the following orders against the tenants.

1. Exclusive possession of the rental unit in favour of the landlords, pursuant to the Notice.
2. Reimbursement for the \$100.00 filing fee for this application.

The landlords appeared at the hearing on 21 July 2023. The tenants did not.

Preliminary Matter - Non-appearance at the Hearing

The tenants did not attend this hearing, although I left the teleconference hearing connection open throughout the hearing which commenced at 0930 hours and ended at about 1000. I confirmed:

1. that on 29 May the RTB provided to the tenants the correct call-in numbers and participant codes in the Notice of Dispute Resolution Proceeding regarding their application;
2. that on 30 June and 18 July the RTB reminded the tenants of this hearing; and

3. by reviewing the teleconference system, that the landlords and I were the only ones who had called into this teleconference.

Rule 7.3 of the RTB Rules of Procedure reads:

7.3 Consequences of not attending the hearing

If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.

The tenants failed to attend this hearing of their application, but I conducted it in their absence. RTB records satisfied me that the RTB had correctly notified the tenants of this hearing and how to participate.

Issues to be Decided

The tenants did not participate in this hearing to advance their Entry Claim and Locks Claim, and so I dismiss both claims with leave to re-apply.

This leaves me with the Notice, which is the subject of both the tenants' application, and the landlords' application. In considering whether to uphold this Notice, the issue I must decide is whether the Notice was effective.

Background and Evidence

The landlords decided that they wanted to end this tenancy.

And so they wrote on a piece of lined paper the name of the tenants, and, 'As of May 27, 2023 you must Vacate Room # 15. You are to Vacate Room #15 by 11 AM on May 27 2023. Owner & Manager.' They signed the piece of paper, and dated it 17 May 2023.

They then posted it on the door of the rental unit.

Analysis

Though this is an application by the tenants to cancel the Notice, and the tenants have not prosecuted their application, section 55 (1) of the Act still requires me to grant an order of possession if the Notice is effective. Furthermore, the landlords apply to have the Notice upheld. And so the question I must ask is whether the Notice was legally effective.

Section 52 of the Act tells us that for a notice to end tenancy to be effective:

1. a landlord must sign it and date it;
2. it must give the address of the rental unit, and state the effective date of the notice;
3. it must also state the grounds for ending the tenancy; and
4. it must be in an RTB form.

The Notice in this case was signed and dated by the landlords, and gave an effective date. Whether 'Room #15' is a sufficient address of the rental unit so as to satisfy the Act is debatable. But this Notice clearly did not state the grounds for ending the tenancy, nor was it in an RTB form.

This means that the Notice was ineffective under the Act, and I cannot uphold it.

For such a notice to be legally effective, it must comply with the Act. Using the require RTB form goes a long way to assisting parties to be compliant with the Act by fully completing the form, and providing the information required to be effective under section 52.

Conclusion

I dismiss the landlords' application, and cancel the Notice.

I make this decision on authority delegated to me by the Director of the RTB *per* section 9.1(1) of the Act.

Dated: 8 August 2023

Residential Tenancy Branch