



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 2124315 ALBERTA LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes Tenant: CNC RP OLC
Landlord: OPC MNR MNDC FF

Introduction

This hearing dealt with cross Applications for Dispute Resolution filed by the parties. The participatory hearing was held, via teleconference, on September 12, 2023.

The Landlord was represented by an agent at the hearing and will be collectively referred to as the “Landlord.” The Tenant also attended the hearing. All parties provided affirmed testimony and were provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me.

The Landlord confirmed receipt of the Tenant’s Notice of Dispute Resolution Proceeding and application package. I find this was sufficiently served.

The Tenant denied getting any Notice of Dispute Resolution Proceeding from the Landlord. However, the Landlord provided registered mail tracking information to show that he sent each of the Tenants the Notice of Dispute Resolution Proceeding on June 19, 2023. Then he sent his evidence package to the Tenants each by registered mail on July 18, 2023. Pursuant to section 90 of the Act, I find the Tenants are deemed served with this package 5 days after it was mailed to the rental unit.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence submitted in accordance with the rules of procedure, and evidence that is relevant to the issues and findings in this matter are described in this Decision.

Preliminary and Procedural Matters

Both parties applied for multiple remedies under the *Residential Tenancy Act* (the “Act”), a number of which were not sufficiently related to one another.

Section 2.3 of the Rules of Procedure states that claims made in an Application must be related to each other and that arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.

After looking at the list of issues before me at the start of the hearing, I determined that the most pressing and related issues in both applications deal with whether or not the tenancy is ending. As a result, I exercised my discretion to dismiss, with leave to reapply, all of the grounds on both applications with the exception of the following grounds:

- to cancel a 1 Month Notice to End Tenancy for Cause (the “Notice”).

Issues(s) to be Decided

- Should the Notice be cancelled?
 - If not, is the Landlord entitled to an Order of Possession?

Background, Evidence, and Analysis

I note the Tenants did not file an application for more time to file this application.

During the hearing, the Tenant stated that he received the Notice on April 28, 2023. A copy of this Notice was also provided into evidence, which lists the following ground for ending the tenancy:

Tenant has allowed an unreasonable number of occupants in the unit/site.

Tenant or a person permitted on the property by the Tenant has:

- *significantly interfered with or unreasonably disturbed another occupant or the Landlord.*
- *put the Landlord's property at significant risk.*

Section 47 of the *Act* states that a Tenant may dispute a notice under this section by making an application for dispute resolution within 10 days after the date the Tenant receives the notice. As the Tenant received the Notice on April 28, 2023, he had until May 8, 2023, to dispute the Notice.

After reviewing the file, I note that the Tenant's application was made on May 19, 2023. In this case, the Tenants did not apply to cancel the Notice within the allowable 10 day window, which lapsed on May 8, 2023. The Tenant did not make an application for more time to file this application.

Given that the Tenant applied beyond the 10 days permitted under the *Act*, and pursuant to section 47(5) of the *Act*, and failed to apply for more time to make this application, I find the Tenant is conclusively presumed to have accepted the end of the tenancy on the effective date of the Notice. I find the Notice complies with section 52 of the *Act*.

Pursuant to section 72 of the *Act*, I award the Landlord the recovery of the filing fee paid. The Landlord may deduct \$100.00 from the security deposit.

Conclusion

The Tenant did not apply on time to dispute the Notice and his application is dismissed.

The Landlord is granted an order of possession effective **two days after service** on the Tenant. This order must be served on the Tenant. If the Tenant fails to comply with this order the Landlord may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court.

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: September 15, 2023

Residential Tenancy Branch