



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC; CNC, LRE, OLC

Introduction

This hearing dealt with the landlords' application, filed on July 26, 2023, pursuant to the *Residential Tenancy Act* ("Act") for:

- an order of possession for cause, pursuant to section 55.

This hearing also dealt with the tenants' application, filed on May 12, 2023, pursuant to the Act for:

- cancellation of the landlords' One Month Notice to End Tenancy for Cause, dated May 6, 2023, and effective on July 1, 2023 ("1 Month Notice"), pursuant to section 47;
- an order restricting the landlords' right to enter the rental unit, pursuant to section 70; and
- an order requiring the landlords to comply with the Act, *Residential Tenancy Regulation* ("Regulation"), or tenancy agreement, pursuant to section 62.

"Landlord LK" did not attend this hearing. Landlord MM ("landlord") and the two tenants, "tenant BA" and tenant KM ("tenant"), and the landlord's two English language translators, "translator JK" and translator BB ("landlord's translator") attended this hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

This hearing lasted approximately 40 minutes from 11:00 a.m. to 11:40 a.m.

The landlord's translator called into this hearing late at 11:04 a.m. Translator JK left this hearing at 11:05 a.m., stating that she wanted the landlord's translator to take over. Both translators, who were arranged by the RTB to assist the landlord, called into this hearing but were unaware of the party they were assisting. The landlord affirmed that

she required assistance and confirmed that the landlord's translator could assist her at this hearing.

All hearing participants confirmed their names and spelling. The tenant provided her email address for me to send a copy of this decision to the tenants after this hearing.

Rule 6.11 of the Residential Tenancy Branch ("RTB") *Rules of Procedure* does not permit recordings of any RTB hearings by any participants. At the outset of this hearing, all hearing participants separately affirmed that they would not record this hearing.

Preliminary Issues – Hearing and Settlement Options, Service of Documents

I explained the hearing and settlement processes, and the potential outcomes and consequences, to both parties. I notified them that my role as an Arbitrator is to make a decision or enforce a voluntary settlement agreement. Both parties had an opportunity to ask questions, which I answered. Neither party made any adjournment or accommodation requests. Both parties confirmed that they were ready to proceed with this hearing, they did not want to settle both applications, and they wanted me to make a decision. Both parties were provided with multiple opportunities to settle their applications during this hearing, but declined to do so.

I cautioned the landlord that if I dismissed the landlords' application, the landlords' 1 Month Notice could be cancelled, I may not issue an order of possession to the landlords against the tenants, and this tenancy could continue. The landlord affirmed that the landlords were prepared to accept the above consequences if that was my decision.

I cautioned the tenants that if I dismissed their application, the landlords' 1 Month Notice may be upheld, I may issue an order of possession to the landlords against the tenants, and this tenancy could end as early as 2 days or another period of time. The tenants affirmed that they were prepared to accept the above consequences if that was my decision.

Both parties confirmed receipt of the other party's application for dispute resolution hearing package. In accordance with section 89 of the *Act*, I find that both parties were duly served with the other party's application.

The tenants confirmed receipt of the landlords' 1 Month Notice. In accordance with section 88 of the *Act*, I find that both tenants were duly served with the landlords' 1 Month Notice.

Preliminary Issue – 1 Month Notice

During this hearing, both parties agreed that the landlords did not check off any reasons in the checkboxes on page 2 of the 1 Month Notice that was issued to the tenants.

Sections 47 and 52 of the *Act* state the following, in part:

47(1) A landlord may end a tenancy by giving notice to end the tenancy if one or more of the following applies:...

...

(3) A notice under this section must comply with section 52 [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

(d) except for a notice under section 45 (1) or (2) [tenant's notice], state the grounds for ending the tenancy,

The RTB form for the 1 Month Notice used by the landlords, states the following at the top of page 2, in part:

Reason for this One Month's Notice to End Tenancy: (check all boxes that apply)

I informed both parties that pursuant to the 1 Month Notice RTB form, and sections 47 and 52 of the *Act*, the landlords are required to state the grounds for ending this tenancy, by checking off the applicable checkboxes on page 2 of the notice.

I notified both parties that the landlords did not check off any reasons on page 2 of the notice, and provide the tenants with the reasons for ending their tenancy, as required by sections 47 and 52 of the *Act*. I informed them that the landlords' 1 Month Notice was cancelled, this tenancy continues, and the landlords are not entitled to an order of possession against the tenants. Both parties affirmed their understanding of same.

Preliminary Issue – Remainder of Tenants' Application

The tenants confirmed that they filed an application for an order to comply and an order restricting the landlords' right to enter the rental unit. They stated that they did not have a copy of their application in front of them during this hearing. They claimed that they only got one copy of their application from the RTB, and they provided it to the landlords, but they did not keep a copy for themselves. They said that they did not know what sections of the *Act* and what orders they were seeking in their application because they did not have a copy in front of them. They claimed that they wanted the landlords to stay out of their rental unit, for the remainder of their tenancy, unless it is an emergency. They stated that the landlords knocked on their door and threatened to enter, but the tenants did not let them into the rental unit, so the landlords did not enter. They stated that the landlords swore at them in Punjabi all the time.

The landlord stated that she did not enter the tenants' rental unit without notice or permission. She said that she always gave prior notice before entering, of at least 24 hours. She claimed that she did not know about section 29 of the *Act*, so when the tenants asked for a paper notice on the outside of their door, she did that. She said that tenant BA is always rude to her and calls her a "bitch."

Section 29 of the *Act* states the following:

Landlord's right to enter rental unit restricted

29(1) A landlord must not enter a rental unit that is subject to a tenancy agreement for any purpose unless one of the following applies:

- (a) the tenant gives permission at the time of the entry or not more than 30 days before the entry;*
- (b) at least 24 hours and not more than 30 days before the entry, the landlord gives the tenant written notice that includes the following information:*
 - (i) the purpose for entering, which must be reasonable;*
 - (ii) the date and the time of the entry, which must be between 8 a.m. and 9 p.m. unless the tenant otherwise agrees;*
- (c) the landlord provides housekeeping or related services under the terms of a written tenancy agreement and the entry is for that purpose and in accordance with those terms;*
- (d) the landlord has an order of the director authorizing the entry;*
- (e) the tenant has abandoned the rental unit;*
- (f) an emergency exists and the entry is necessary to protect life or property.*

(2) *A landlord may inspect a rental unit monthly in accordance with subsection (1) (b).*

I find that the landlords did not violate section 29 of the *Act*. The tenants agreed that the landlords did not enter their rental unit without notice or permission. Therefore, the tenants' application for an order requiring the landlords to comply with the *Act*, *Regulation*, or tenancy agreement, and an order restricting the landlords' right to enter the rental unit, are dismissed without leave to reapply.

Conclusion

The landlords' application is dismissed without leave to reapply.

The tenants' application to cancel the landlords' 1 Month Notice is granted. The landlords' 1 Month Notice, dated May 6, 2023, is cancelled and of no force or effect. The landlords are not entitled to an order of possession. This tenancy continues until it is ended in accordance with the *Act*.

The remainder of the tenants' application is dismissed without leave to reapply.

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 07, 2023

Residential Tenancy Branch