



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing

DECISION

Introduction

The Tenant filed an Application for Dispute Resolution (the “Application”) on September 9, 2023. The Tenant filed a repeat application concerning the same matter on the same day. They seek an order to cancel the One Month Notice to End Tenancy for Cause (the “One-Month Notice”) issued by the Landlord on September 5, 2023.

The matter proceeded by way of a hearing pursuant to s. 74(2) of the *Residential Tenancy Act* (the “Act”) on January 2, 2024. In the conference call hearing I explained the process and offered each party the opportunity to ask questions.

Both parties attended the hearing, and each was provided the opportunity to present oral testimony and make submissions in the hearing. The Landlord confirmed they received the Notice of Dispute Resolution Proceeding from the Tenant in a timely manner, advising them of all aspects of this hearing process.

Preliminary Matter – Tenant’s service of Notice of Dispute Resolution Proceeding

At the start of the hearing the Tenant stated they served the Notice of Dispute Resolution Proceeding to the Landlord via email. This was on September 14, the same day that the Tenant received the Notice of Dispute Resolution Proceeding from the Residential Tenancy Branch. The Tenant provided that this was an established email address they used consistently with the Landlord throughout 2023, with the Landlord giving this email address to the Tenant early in 2023 due to the Tenant’s phone service ending.

On this basis, which was told to me by the Tenant in affirmed testimony in the hearing, I find the Tenant served the Landlord with the Notice of Dispute Resolution Proceeding for this hearing as required.

I find also the Tenant served their evidence to the Landlord for this hearing. This was a copy of pages of the tenancy agreement, the end-of-tenancy notice, and image of a stop-work order.

The Landlord provided no material separately to the Residential Tenancy Branch for this matter, and no evidence directly to the Tenant.

Issues to be Decided

Is the One Month Notice valid?

If the One-Month Notice is not valid, is the Landlord entitled to an Order of Possession of the rental unit?

1

Background and Evidence

On their second application to the Residential Tenancy Branch, the Tenant provided a copy of their tenancy agreement. This shows the tenancy started on August 1, 2021, continuing on a month-to-month basis after the initial one-year fixed term.

The copy of the One-Month Notice document in the Tenant's evidence shows the Landlord served this to the Tenant on August 26, 2023. In the hearing, the Tenant indicated the Landlord served this by attaching it to the door of the rental unit on September 5, 2023. The Tenant answered the door at this time and received the One-Month Notice in person from the Landlord.

The document provides for the end-of-tenancy date of October 31, 2023. The Tenant filed this Application at the Residential Tenancy Branch on September 9, 2023, four days after they received this One-Month Notice.

On page 2 of the document, the Landlord indicated the following:

- ☐ rental unit must be vacated to comply with a government order.

On page 2 the Landlord listed details:

We are writing this matter to you in regard to our existing tenancy relationship. It has recently come to our attention that the suite you are currently occupying has been deemed to be unauthorized by the [municipality]. As a result, we have been subject to a number of fees and penalties. Given the costs currently being incurred for the unauthorized suite, we have reached the difficult decision to no longer rent the suite. As such, we kindly ask that you vacate the suite.

In the evidence, the Tenant provided a copy of a stop-work order for the rental unit address. In the hearing, the Tenant stated they were assuming that this has to do with the issue raised by the Landlord.

Analysis

The *Act* s. 47 provides various grounds for which a landlord may end a tenancy by issuing a One-Month Notice. This includes compliance with “an order of a federal, British Columbia, regional or municipal government authority”.

In this matter, the onus is on the Landlord to provide they have cause to end the tenancy. On my review, I find the Tenant notified the Landlord about this hearing; however, the Landlord did not attend. The Landlord did not provide proof of the need to end tenancy; therefore, I am not satisfied the One-Month Notice is valid.

In sum, I find the Landlord did not provide adequate evidence of any order as per s. 47(k) of the *Act*.

The Tenant was successful in this Application; the One-Month Notice served by the Tenant on August 26, 2023 is invalid, of no force or effect.

Conclusion

For the reasons above, I order the One-Month Notice signed by the Landlord on August 26, 2023 is cancelled and the tenancy remains in full force and effect.

I made this decision on the authority delegated to me by the Director of the Residential Tenancy Branch under s. 9.1(1) of the *Act*.

Dated: January 2, 2024

Residential Tenancy Branch