



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Municipal Affairs

DECISION

Introduction

This hearing dealt with four separate tenant Applications for Dispute Resolution under the *Residential Tenancy Act* (the Act) for:

- Cancellation of the Four Month Notice (Four Month Notice) to End Tenancy for Demolition or Conversion of a Rental Unit
- Authorization to recover the filing fees for these applications from the Landlord under section 72 of the Act

Those listed on the cover page of this decision attended the hearing and were affirmed. Words utilizing the singular shall also include the plural and vice versa where the context requires.

Service of Notices of Dispute Resolution Proceeding (Proceeding Packages) and Evidence

I find the Landlord was served via UPS Courier services on December 3, 2024, for application 910174887, the fifth day after the shipping notice as per the RTB Director's Order dated November 15, 2024. Tenant AM provided the Proof of Service form and the tracking number to confirm this service.

I find applications 910175219, 910175290 and 910175343 were served via agreed upon email addresses. Tenant AM provided the email exchange between them and the Landlord, which confirms the Landlord's authorization for the Tenant to serve via email documents for dispute resolution. The Tenant provided copies of outgoing emails with attachments to show delivery of the Proceeding Package and documentary evidence.

The Landlord did not submit evidence to the Residential Tenancy Branch (RTB). The RTB communications tab shows the Landlord called the RTB and was aware of the hearing. The Landlord informed the RTB staff member that they served the Four Month Notice(s) by mistake.

Facts and Analysis

The Landlord did not attend this hearing, although I left the teleconference hearing connection open for 41 minutes in order to enable the Landlord to call into the hearing.

The Tenant attended the hearing and was given an opportunity to be heard. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Dispute Resolution Proceeding. I used the teleconference system to confirm that the Tenant and I were the only ones who had called into the hearing.

Rule of Procedure 6.6 states:

6.6 The standard of proof and onus of proof

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed.

The onus to prove their case is on the person making the claim. In most circumstances this is the person making the application. However, in some situations the arbitrator may determine the onus of proof is on the other party. For example, the landlord must prove the reason they wish to end the tenancy when the tenant applies to cancel a Notice to End Tenancy.

As such, the Landlord bears the evidentiary burden to establish it is more likely than not that the reason they wish to end the tenancy is valid. The Landlord is unable to do this if they do not attend the hearing. Accordingly, I find that the Landlord has failed to discharge their evidentiary burden.

The Tenant testified that the Landlord does not have all necessary permits for demolition, development or building work. The Tenant testified that they contacted the City and learned that the Landlord had not declared the tenancies to the City.

Further, the Tenant testified that the Landlord sent them an email to withdraw all of the Four Month Notices. The email dated December 15, 2024, was submitted in evidence. The email is addressed to all four Tenants and states:

- Hello all, I am withdrawing all of the RTB-29 forms. As you have also mentioned, all building permits need to be issued before providing this form to the tenants

and one permit is not enough. I am working with the city of Vancouver and will keep you posted. I apologize for the error and inconvenience.

[reproduced as written]

Based on the above, I grant the Tenant's application and order that the Four Month Notices are cancelled and are of no force or effect. The tenancies shall continue until they are ended in accordance with the Act.

Pursuant to section 72 of the Act, as the Tenant has been successful in their application, they are entitled to recover their filing fee from the Landlord, which they may do by deducting \$100.00 from one future month's rent. Such a deduction is not grounds for the Landlord to issue a notice to end tenancy for non-payment of rent, as a tenant is entitled to withhold rent when authorized by an arbitrator. I authorize the following deductions:

- 910174887, for Tenant AM and EM to deduct \$100.00 in total for their application for the main address
- 910175290, for Tenant AM to deduct \$100.00 for their application for the west garage
- 910175290, for Tenant VM to deduct \$100.00 for their application for the basement

As Tenant KS received a fee waiver from the RTB for their application for dispute resolution, I do not authorize any deductions for them.

Conclusion

The Tenant's application is granted for cancellation of the Landlord's Four Month Notice under section 49 of the Act.

The Four Month Notice(s) of October 28, 2024, and October 29, 2024, are cancelled and are of no force or effect.

The tenancies continue until they are ended in accordance with the Act.

I authorize the Tenant to deduct \$100.00 from one future month's rent in full satisfaction of the recovery of the cost of the filing fee, as noted above in this decision.

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: December 19, 2024

Residential Tenancy Branch