



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction and Analysis

This was the tenant's application under the *Residential Tenancy Act* (the "Act") to cancel the landlord's 1 Month Notice to End Tenancy for Cause (the "1 Month Notice"). The tenancy agreement in evidence shows that this month to month tenancy began on June 28, 2016 with a monthly rent of \$800.00 payable on or before the first day of each calendar month.

The hearing began promptly at 11:00 a.m. Pacific Time on Wednesday, December 7, 2016 as scheduled and the telephone system remained open and was monitored for 18 minutes. The landlord did not sign in to the conference call during this time.

In the case before me, the burden is on the landlord to justify the 1 Month Notice. It is set out in Rule 6.6 of the Rules of Procedure that the landlord must prove the reason he wishes to end the tenancy. As the landlord has not appeared, the validity of the 1 Month Notice cannot be established. Accordingly, I grant the tenant's application to cancel the 1 Month Notice.

I would have cancelled the 1 Month Notice if the landlord had appeared in any event. Section 52 requires, among other things, that a notice to end tenancy state the grounds for ending the tenancy. The landlord has not checked any of the available grounds on the 1 Month Notice. Instead, he has indicated in handwriting that the landlord is to perform renovations. A tenancy may not be ended for cause under s. 47 for renovations. It appears the landlord's notice ought to have been given under s. 49 (Landlord's Use of Property). Section 49 requires that the landlord give the tenant 2 months' notice, and also requires that the landlord compensate the tenant (see s. 51).

Conclusion

The landlord's 1 Month Notice is cancelled. The tenancy continues until ended in accordance with the Act.

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 08, 2016

Residential Tenancy Branch