



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding WESTLAND WILLINGDON LTD PARTNERSHIP
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with the tenant's application to cancel a 1 Month Notice to End Tenancy for Cause. Both parties appeared or were represented at the hearing and were provided the opportunity to make relevant submissions, in writing and orally pursuant to the Rules of Procedure, and to respond to the submissions of the other party.

At the outset of the hearing, I explored service of hearing documents upon each other and the Residential tenancy Branch. It was confirmed that the tenant personally delivered the hearing package to the assistant property manager within three days of filing the application. I noted that the landlord had delivered evidence to the Residential Tenancy Branch only four days before the hearing on July 13, 2018. The landlord did not serve the tenant with the documents or evidence submitted to the Branch. A respondent is required to submit/serve evidence at least seven (7) full days before the scheduled hearing. All parties that intend to rely upon evidence must serve an identical copy to both the Residential Tenancy Branch and the other party. The landlord failed to serve its evidence upon the tenants and I informed the parties that I would not consider evidence that has not been served upon the other party with the exception of the 1 Month Notice to End Tenancy for Cause that is the subject of this proceeding since both parties had a copy of that document.

I noted that there were two co-tenants named on the Application for Dispute Resolution but only one tenant is named on the 1 Month Notice to End Tenancy for Cause. I did not have a copy of the tenancy agreement but both parties provided consistent testimony that the written tenancy agreement names and was signed by the one tenant named on the 1 Month Notice. Nor, was the other named co-tenant at the hearing to confirm his standing as a tenant or not. Accordingly, I amended the Application for

Dispute Resolution to name only the tenant named on the 1 Month Notice and the tenancy agreement.

Issue(s) to be Decided

Should the 1 Month Notice to End Tenancy for Cause be upheld or cancelled?

Background and Evidence

The landlord's agents were unclear as to the terms of tenancy and did not have a copy of the written tenancy agreement in front of them. Accordingly, I relied upon the tenant's testimony in recording the key tenancy information. The tenant testified that the tenancy started eight years ago with a former owner/property manager. The monthly rent is \$910.00 payable on the first day of every month.

On May 29, 2018 the landlord issued the subject 1 Month Notice to End Tenancy for Cause ("1 Month Notice") to the tenant with a stated effective date of June 30, 2018. The landlord stated the 1 Month Notice was "delivered to the door". I asked the landlord whether that meant the 1 Month Notice was posted to the door to which the landlord confirmed it did. The tenant testified that the 1 Month Notice was slid under her door.

The 1 Month Notice indicates the following reasons for ending the tenancy on the second page:

- Tenant or a person permitted on the property by the tenant has:
 - Put the landlord's property at significant risk.
- Tenant or a person permitted on the property by the tenant has engaged in illegal activity that has, or is likely to:
 - Adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant.

The space on the form that is entitled "Details of Cause" was not completed. Nor was any other document that provides for details of cause attached to the 1 Month Notice served to the tenant.

The landlord explained that the "Details of Cause" was not completed because it is sufficient to just check the boxes that are on the second page of the 1 Month Notice and because the landlord did not want the tenant to know the reasons for fear of retaliation

but the landlord provided the reasons in the written submissions provided to the Residential Tenancy Branch on July 13, 2018.

The landlord also made statements several times about non-payment of rent for August 2017; however, such an issue is not relevant to the 1 Month Notice before me and I prohibited the landlord from making further submissions on that issue.

The tenant stated that she has not received any written warnings from the landlord and has no idea why the landlord issued the eviction notice and that she has not done anything illegal. The tenant stated she has complained of pests and the landlord hangs up on her.

Analysis

Section 52 of the Act provides for the form and content of notices to end tenancy. Among other things, in order for a notice to end tenancy to be effective it must be in the approved form when given by a landlord.

The Director has the authority to approve forms pursuant to section 10 of the Act, which provides:

Director may approve forms

10 (1) The director may approve forms for the purposes of this Act.

(2) Deviations from an approved form that do not affect its substance and are not intended to mislead do not invalidate the form used.

The 1 Month Notice to End Tenancy for Cause that is in the approved form provides a section entitled Details of Cause. In this section, the form states: "Include any dates, times, people or other information that says who, what, where or when caused the issue. The RTB may cancel the notice if details are not described. Attach separate sheet(s) if necessary (signed and numbered)."

The 1 Month Notice that is the subject of this proceeding was in the approved form but I find that it was not sufficiently completed given the lack of "details of cause". In keeping with the principles of natural justice, a person receiving an eviction notice is entitled to know the reason(s) for its issuance so that they may adequately respond or prepare a defence. In this case I find that the landlord's failure to complete the Details of Cause

section of the approved form is prejudicial to the tenant as seen by her lack of knowledge of the events or activities that have resulted in the issuance of the Notice.

In light of the above, I grant the tenant's request to cancel the 1 Month Notice to End Tenancy for Cause. Accordingly, the tenancy continues at this time and until such time it legally ends.

It is important to note that I have made no finding as to whether the landlord has a basis to end the tenancy under the Act. As I informed the parties during the hearing, the landlord remains at liberty to issue another Notice to End Tenancy should the landlord decide to pursue eviction. The landlord is cautioned that in serving documents to a tenant, sliding a document under the door is not an acceptable method of service. The landlord must use a method that is provided under section 88 of the Act.

Conclusion

The 1 Month Notice issued on May 29, 2018 has been cancelled because it was not sufficiently completed by the landlord and the tenancy continues at this time.

I have made no finding as to whether there were sufficient grounds for eviction and the landlord is at liberty to issue another notice to end tenancy.

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: July 17, 2018

Residential Tenancy Branch