



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL, FFT

Introduction

This hearing dealt with an Application for Dispute Resolution (“application”) seeking remedy under the *Residential Tenancy Act* (“Act”) by the tenant to cancel a 4 Month Notice to End Tenancy for Demolition, Renovation, Repair or Conversion of Rental Unit dated December 30, 2018 (“4 Month Notice”), and to recover the cost of the filing fee.

The tenant, a support person for the tenant, and an agent for the landlord LJ (“agent”) attended the teleconference hearing. The parties gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and make submissions to me.

The agent confirmed that the tenant served the landlord with documentary evidence and that the evidence was reviewed prior to the hearing. The agent also confirmed that the landlord did not serve any documentary evidence in response to the tenant’s application.

Preliminary and Procedural Matter

The parties confirmed their email addresses at the outset of the hearing. The parties also confirmed their understanding that the decision would be emailed to both parties.

Issues to be Decided

- Should the 4 Month Notice be cancelled?
- Is the tenant entitled to the recovery of the cost of the filing fee under the *Act*?

Background and Evidence

The tenant applied on January 29, 2019 to dispute the 4 Month Notice which is dated December 30, 2018. The parties agreed that the tenant was served with the 4 Month Notice on December 31, 2018 by personal service.

The 4 Month Notice has an effective date of April 30, 2019. The tenant testified that when he was served with the 4 Month Notice, it was missing the third page as the 4 Month Notice is a three-page form and the third page includes the details on how to dispute the 4 Month Notice and the timeline that applies under the *Act*. The agent testified that she could not recall if she served all three pages of the 4 Month Notice. The agent confirmed that it was her that served the 4 Month Notice but she cannot recall the number of pages served on the tenant.

In addition, the 4 Month Notice was not completed in full and did not indicate which applied as follows:

- ☐ I have obtained all permits and approvals required by law to do this work.
- ☐ No permits and approvals are required by law to do this work.

The reason stated on the 4 Month Notice is:

I am ending your tenancy because I am going to demolish the rental unit.

When a tenant applies to dispute a 4 Month Notice, the burden of proof falls to the landlord to prove that the 4 Month Notice has merit and should be upheld. The landlord did not serve any documentary evidence in support of the reason stated on the 4 Month Notice.

Analysis

Based on the documentary evidence and the oral testimony provided during the hearing, and on the balance of probabilities, I find the following.

Section 52 of the *Act* applies and states:

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

- (a) be signed and dated by the landlord or tenant giving the notice,
- (b) give the address of the rental unit,
- (c) state the effective date of the notice,
- (d) except for a notice under section 45 (1) or (2) *[tenant's notice]*, state the grounds for ending the tenancy,
 - (d.1) for a notice under section 45.1 *[tenant's notice: family violence or long-term care]*, be accompanied by a statement made in accordance with section 45.2 *[confirmation of eligibility]*, and
- (e) **when given by a landlord, be in the approved form.**

Emphasis added

I find that the 4 Month Notice fails to comply with section 52 of the *Act* for two reasons. Firstly, I am not satisfied that the landlord served all three pages of the 4 Month Notice as the agent could not recall if she served all three pages, and the tenant testified that he only received the first two pages. Secondly, by failing to indicate whether permits were required to demolish the rental unit which is a house, I find the 4 Month Notice is not in the approved form as the form was not completed in full.

As the 4 Month Notice does not comply with section 52 of the *Act*, **I cancel** the 4 Month Notice. Therefore, the 4 Month Notice is of no force or effect.

The tenant's application is successful as a result.

I ORDER that the tenancy to continue until ended in accordance with the *Act*.

I caution the landlord not to serve notices to end tenancy that are not completed in full and that do not comply with section 52 of the *Act*.

As the tenant's application had merit, I find that the tenant is entitled to monetary compensation pursuant to sections 67 and 72 of the *Act*, in the amount of **\$100.00** to recover the filing fee. **I authorize** a one-time rent reduction in the amount of **\$100.00** from the tenant's April 2019 rent, in full satisfaction of the tenant's recovery of the cost of the filing fee.

Conclusion

The tenant's application is successful.

The 4 Month Notice has been cancelled and is of no force or effect.

The tenancy shall continue until ended in accordance with the *Act*.

I authorize a one-time rent reduction in the amount of \$100.00 from the tenant's April 2019 rent, in full satisfaction of the tenant's recovery of the cost of the filing fee.

The decision will be emailed to both parties as indicated above.

The landlord has been cautioned as indicated above.

This decision is final and binding on the parties, unless otherwise provided under the *Act*, and 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: March 14, 2019

Residential Tenancy Branch