



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ATIRA PROPERTIES
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the *Act*) for cancellation of the One Month Notice to End Tenancy for Cause, pursuant to section 47.

The landlord did not attend this hearing, although I left the teleconference hearing connection open until 11:10 a.m. in order to enable the landlord to call into this teleconference hearing scheduled for 11:00 a.m. The tenant attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the tenant and I were the only ones who had called into this teleconference.

The tenant testified that he personally served the landlord with his application for dispute resolution on April 4, 2019. I find that the landlord was served with the tenant's application for dispute resolution in accordance with section 89 of the *Act*.

Issue to be Decided

1. Is the tenant entitled to cancellation of the One Month Notice to End Tenancy for Cause, pursuant to section 47 of the *Act*?

Background and Evidence

While I have turned my mind to the documentary evidence and the testimony of the tenant, not all details of his submissions and arguments are reproduced here. The relevant and important aspects of the tenant's claims and my findings are set out below.

The tenant provided the following undisputed testimony. This tenancy began in March of 2018 and is currently ongoing. Monthly rent in the amount of \$375.00 is payable on the first day of each month.

The tenant testified that on March 31, 2019 he received a One Month Notice to End Tenancy for Cause from the landlord with an effective date of April 30, 2019 (the "One Month Notice"). The One Month Notice was entered into evidence.

The One Month Notice states the following reasons for ending the tenancy:

- Tenant or a person permitted on the property by the tenant has:
 - significantly interfered with or unreasonably disturbed another occupant or the landlord;
 - seriously jeopardized the health or safety or lawful right of another occupant or the landlord;
- 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 tenant testified that he and the landlord came to a resolution prior to this hearing and that the landlord is not seeking to evict him anymore.

Analysis

Rule 6.6 of the Residential Tenancy Branch Rules of Procedure states that 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.

In this case, the onus is on the landlord to prove the reasons behind the issuance of the One Month Notice. As the landlord did not attend or provide any evidence, I find that the landlord has not proved, on a balance of probabilities, the reasons behind the issuance of the One Month Notice. I therefore find that the One Month Notice is cancelled and of no force or effect.

Conclusion

The One Month Notice is cancelled and of no force or effect.

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: May 21, 2019

Residential Tenancy Branch