



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL-4M, FFT

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

The tenant applied for:

- cancellation of the landlord's 4 Month Notice to End Tenancy for Demolition, Renovation, Repair, or Conversion of the Rental Unit (the 4 Month Notice) pursuant to section 49;
- authorization to recover his filing fee for this application from the landlord pursuant to section 72.

This matter was scheduled for a conference call at 11:00 a.m. on this date. Both parties participated in the teleconference. The tenants were represented by their legal counsel. The parties confirmed that they had exchanged their documentary evidence.

Preliminary Issue – Tenants wish to withdraw application

At the outset of the hearing counsel for the tenants advised that the tenants are no longer disputing the notice and will abide by it, and that this hearing is no longer required. Counsel also sought an order for the tenants to be assured of their one months rent compensation for their final month of tenancy. The landlords still wish to have the tenancy end and want an order of possession.

Analysis

For absolute clarity and for the benefit of the parties; as per section 51 of the Act, the tenants are entitled to the equivalent of one months rent as compensation pursuant to a notice issued under section 49 of the Act. Although the tenants have withdrawn their application and I accept counsel's submission that the tenants no wish to pursue their application, it does not stop the process in regard to the notice to end tenancy.

Section 55 of the Act does require me to do the following:

- 55** (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, **the director must**

grant to the landlord an order of possession of the rental unit if

- (a) the landlord's notice to end tenancy complies with section 52 [*form and content of notice to end tenancy*], and
- (b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

The landlord did not submit a copy of the Notice to End Tenancy for this hearing, however the tenants submitted a notice that was issued on October 31, 2019 with an effective date of February 28, 2020. As this is a leap year, the final day in February is the 29th and therefore “automatically corrected” to that day pursuant to section 53(2) of the Act. I further find that the notice complies in form and content as required under section 52 of the Act. The notice is of full effect and force. The tenancy is terminated. As I am required to issue the order as noted above, I hereby grant the landlord an order of possession. The tenant’s application is dismissed in its entirety.

Conclusion

The tenant’s application is dismissed in its entirety without leave to reapply. The landlord is granted an order of possession.

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: January 20, 2020

Residential Tenancy Branch