



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FFT, CNL-4M, RP, OLC

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution filed by the Tenants on February 06, 2020 (the “Application”). The Tenants applied as follows:

- To dispute a Four Month Notice to End Tenancy for Demolition, Renovation, or Conversion to Another Use;
- For repairs;
- For an order that the Landlord comply with the Act, regulation and/or the tenancy agreement; and
- For reimbursement for the filing fee.

The Tenants did not appear at the hearing which lasted 33 minutes. H.K. appeared at the hearing for the Landlord. H.K. advised that they also own the rental unit, are a co-landlord and the Landlord is their wife.

H.K. advised that the Tenants are still living at the rental unit and the Landlord is seeking an Order of Possession on a Four Month Notice.

I explained the hearing process to H.K. H.K. provided affirmed testimony.

H.K. confirmed the Landlord received the hearing package for this matter. No evidence had been submitted by either party for the hearing.

Issue

1. Is the Landlord entitled to an Order of Possession based on a Four Month Notice?

Background and Evidence

H.K. testified as follows in relation to a tenancy agreement in this matter. There is a written tenancy agreement between H.K. and the Landlord as landlords and the Tenants in relation to the rental unit. The tenancy started January 01, 2017 and is a month-to-month tenancy. Rent is \$850.00 per month due on the first day of each month.

I did not have a copy of a Four Month Notice before me as neither party submitted a copy prior to the hearing. I asked H.K. about the contents of the Four Month Notice. H.K. testified that the Four Month Notice is dated January 18, 2020. I asked H.K. what grounds for the Four Month Notice were checked off. H.K. advised that no grounds were checked off on the Tenants' copy.

Analysis

Rule 7.3 of the Rules of Procedure states:

7.3 Consequences of not attending the hearing

If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.

The Tenants did not appear at the hearing. In the absence of evidence from the Tenants about the basis for the Application, the Application is dismissed without leave to re-apply.

Section 55 of the *Residential Tenancy Act* (the "Act") states:

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...and
(emphasis added)

(b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

Section 52 of the *Act* sets out the form and content of a notice to end tenancy and states:

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) ...state the grounds for ending the tenancy...
- (e) when given by a landlord, be in the approved form.

(emphasis added)

I am not satisfied the Four Month Notice complies with section 52 of the *Act* for two reasons. First, the Four Month Notice is not before me as neither party submitted it prior to the hearing. Therefore, I cannot confirm that it complies with section 52 of the *Act*. Second, H.K. testified that the section of the Four Month Notice that outlines the possible grounds for the notice and corresponding boxes to check to indicate the grounds was not completed. H.K. testified that none of the boxes were checked on the Tenants' copy. Given this, I am not satisfied the Four Month Notice states the grounds for ending the tenancy as required under section 52(d) of the *Act*.

Given I am not satisfied the Four Month Notice complies with section 52 of the *Act*, I decline to issue the Landlord an Order of Possession based on it under section 55 of the *Act*.

Conclusion

The Application is dismissed without leave to re-apply.

I decline to issue the Landlord an Order of Possession based on the Four Month Notice under section 55 of the *Act* as I am not satisfied the Four Month Notice complies with section 52 of the *Act* as required.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*.

Dated: April 16, 2020

Residential Tenancy Branch