



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Nanaimo Affordable Housing

(NAHS) and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with an application filed by the tenant pursuant the *Residential Tenancy Act* (the “Act”) for an order to cancel a 1 Month Notice to End Tenancy for Cause, pursuant to sections 47 and 55.

The tenant attended at the date and time set for the hearing of this matter. The landlord did not attend this hearing, although I left the teleconference connection open throughout. The hearing commenced at 11:00 a.m. and ended at 11:23 a.m. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Dispute Resolution Proceeding. I also confirmed from the teleconference system that the tenant and I were the only ones who had called into this teleconference.

Preliminary Issue – service of the Notice of Dispute Resolution Hearing

As only the tenant attended the hearing, I asked the tenant to confirm that she had served the landlord with the Notice of Dispute Resolution Proceeding for this hearing. The tenant testified that she sent the landlord the Notice of Dispute Resolution Hearing via registered mail to address “B”, the office of the landlord society where she was advised by the landlord to send any documents related to the tenancy. The tracking number for the mailing is recorded on the cover page of this decision. According to the tenant, address “A”, the address provided on the notice to end tenancy, is unstaffed and she was advised by the landlord that any documentation sent there would go unanswered. There is no tenancy support office at address “A” and when she tried to drop things off there in the past, she was told she had to go to address “B”.

The tenancy began with a previous landlord, so the mailing address for the current landlord would not appear on the tenancy agreement, according to the tenant. It was taken over by the current landlord in 2009.

During the hearing, I looked up the tracking number provided by the tenant and determined that the Notice of Dispute Resolution Proceedings was signed for by a person with the initials MM on November 14th. Based on the undisputed testimony of the tenant and the evidence before me, I find the landlord sufficiently served with the tenant's Notice of Dispute Resolution Proceedings package on November 14, 2022 pursuant to section 71 of the Act.

This hearing proceeded in the absence of the landlord.

Issue(s) to be Decided

Should the notice to end tenancy be upheld or cancelled?

Background and Evidence

The tenant gave the following undisputed testimony. On October 24, 2022, she was served with the 1 Month Notice to End Tenancy for Cause when it was posted to her door. The tenant filed her application to dispute the notice on October 26, 2022.

The landlord provided 3 reasons for ending the tenancy:

1. the tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord;
2. the tenant or a person permitted on the property by the tenant has seriously jeopardized the health or safety or lawful right of another occupant or the landlord;
3. breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so;

The tenant disputes each of the reasons for ending the tenancy as stated by the landlord in the notice. The tenant testified that she had merely put a note on the door of another tenant's unit because that tenant's guest had called her vulgar and inappropriate names. The note asked the guest to cease and desist. The tenant testified that the landlord society encourages tenants to deal with their own disagreements without engaging the landlord or the police. The tenant has not seen any evidence from the landlord to corroborate the allegations in the notice to end tenancy.

Analysis

Section 47 of the Act provides that upon receipt of a Notice to End Tenancy for Cause, the tenant may, within ten days, dispute it by filing an application for dispute resolution

with the Residential Tenancy Branch. Pursuant to Rule 6.6 of the Residential Tenancy Branch Rules of Procedure, if the tenant files the application, the landlord bears the burden to prove he or she has valid grounds to terminate the tenancy for cause. The landlord must show on a balance of probabilities, which is to say it is more likely than not, that the tenancy should be ended for the reasons identified in the Notice.

The tenant filed her application to dispute the notice to end tenancy the second day after receiving it, well within the timeframe required under section 47. The landlord did not attend this hearing to provide any evidence or testimony regarding the reasons for ending the tenancy. Consequently, I find the landlord has not proven the grounds as stated on the document. For this reason, the notice to end tenancy is cancelled.

Conclusion

The notice to end tenancy is cancelled and of no further force or effect.

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

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: December 20, 2022

Residential Tenancy Branch