



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

This hearing was convened as a result of the tenant's Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (Act). The tenant applied to cancel a 1 Month Notice to End Tenancy for Cause dated August 31, 2022 (1 Month Notice).

The landlord, the tenant and an advocate for the tenant, KD (advocate) attended the teleconference hearing. The parties were affirmed and were provided the opportunity to present their evidence orally and in documentary form prior to the hearing and make submissions to me. Words utilizing the singular shall also include the plural and vice versa where the context requires.

There were no service issues raised during the hearing. The filing fee was waived for this application.

Preliminary and Procedural Matter

The tenant's email addresses was confirmed as the email address for their advocate. The landlord testified that they do not use email and as a result, the decision will be mailed to the landlord and their mailing address confirmed during the hearing.

Issues to be Decided

- Should the 1 Month Notice to End Tenancy for Cause be set aside?

Background and Evidence

A copy of the tenancy agreement was submitted in evidence and began on April 3, 2013.

A copy of the 1 Month Notice was submitted in evidence and is dated August 31, 2022 and is on an outdated dated 2016/12. The effective vacancy date is listed as October 31, 2022. There are no causes alleged on the 1 Month Notice. Instead, the landlord wrote the following as follows:

DETAILS OF CAUSE(S): Include any dates, times, people or other information that says who, what, where and when caused the issue. The RTB may cancel the notice if details are not described. Attach separate sheet(s) if necessary (signed and numbered).

Family wish to move into Unit #101 as soon as possible

The parties were advised that the 1 Month Notice was both outdated and that the reason stated on the 1 Month Notice is related to a 2 Month Notice, which I will address further below.

The tenant filed to dispute the 1 Month Notice on September 8, 2022.

Analysis

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

As the 1 Month Notice is dated August 31, 2022 and the tenant disputed the 1 Month Notice within the 10-day timeline provided under section 47 of the Act, the onus of proof reverts to the landlord to prove that the 1 Month Notice is valid and should be upheld. If the landlord fails to prove the 1Month Notice is valid, the 1 Month Notice will be cancelled.

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 the 1 Month Notice was on an outdated form from 2016 and is therefore not on the approved form. In addition, I find the reason stated, relates to a 2 Month Notice and that a 1 Month Notice may not be used to end a tenancy for the purpose of a landlord wanting to occupy the rental unit for family use. Given the above, I cancel the 1 Month Notice as it is both outdated and not on the correct form, which should be a 2 Month Notice.

Therefore, **I ORDER** that the tenancy continues until ended in accordance with the Act.

Conclusion

The tenant's application is successful.

The 1 Month Notice is cancelled as it does not comply with section 52 of the Act.

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

This decision will be emailed to the tenant's advocate and mailed to the landlord.

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: January 26, 2023

Residential Tenancy Branch