



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes CNL-4MN MNDCT RP RR FFT

Introduction

This dispute related to an Application for Dispute Resolution (application) by the tenant seeking remedy under the *Residential Tenancy Act* (Act) for the following:

1. Cancel a 4 Month Notice to End Tenancy for Landlord's Use of Property (4 Month Notice),
2. Regular repairs,
3. Monetary claim of \$29,548.12,
4. Rent reduction,
5. \$100 filing fee.

The tenant attended the teleconference hearing. The tenant provided affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form and make submissions to me. The hearing process was explained to the tenant and an opportunity to ask questions was provided.

As the landlord did not attend the hearing, service of the Notice of a Dispute Resolution Hearing dated March 16, 2023 (Notice of Hearing), the application and documentary evidence (Hearing Package) were considered. The tenant stated that the Hearing Package was served on the landlord by registered mail on March 18, 2023 and was emailed also. The tenant provided a registered mail tracking number, RN 712 649 273 CA. According to the Canada Post registered mail tracking website, the landlord or agent for the landlord, signed for and accepted the Hearing Package on March 21, 2023. I find the landlord was duly served on March 21, 2023, the date the landlord or agent signed for and accepted the Hearing Package.

Residential Tenancy Branch (RTB) Rule 7.3 of the Rules of Procedure (Rules) applies and states the following:

Rule 7.3 Consequences of not attending the hearing

The arbitrator may conduct the hearing in the absence of a party or dismiss the application, with or without leave to re-apply.

Based on the above, I find this matter to be unopposed by the landlord and the hearing continued without the tenant present.

I note that while the landlord submitted documentary evidence, I have not considered that documentary evidence as neither the landlord or their agent presented the hearing to present any evidence.

Preliminary and Procedural Matters

RTB Rule 2.3 authorizes me to dismiss unrelated disputes contained in a single application. In this circumstance the tenant indicated several matters of dispute on the application, the most urgent of which is the application to cancel a 4 Month Notice. I find that not all the claims on the application are sufficiently related to be determined during this proceeding. I will, therefore, only consider the tenant's request to cancel the 4 Month Notice and the filing fee at this proceeding. The balance of the tenant's application is dismissed, with leave to re-apply.

The tenant confirmed the email addresses for both parties. The decision will be emailed to both parties as a result.

Issues to be Decided

- Should the 4 Month Notice be cancelled?
- If yes, is the tenant entitled to the recovery of the cost of the filing fee under the Act?

Background and Evidence

A copy of the tenancy agreement was submitted in evidence. A fixed-term tenancy began on July 1, 2022 and is scheduled to convert to a month-to-month tenancy after June 30, 2023.

The tenant submitted a What's App text message from the landlord indicate that they want the tenant to vacate as the landlord intends to sell the rental property. The tenant

was advised that the landlord is unable to end the tenancy by text and as a result, I would be ordering the tenancy to continue and granting the tenant their filing fee.

Analysis

Based on the above, the undisputed testimony and undisputed evidence before me, and on a balance of probabilities, I find as follows.

Firstly, section 44 of the Act applies and states the only ways a tenancy can end. I find that sending an email is not listed and there is no evidence before me that the tenant was served with a formal, written notice to end tenancy.

Secondly, section 52 of the Act also 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]

Given the above, I find the What's App text is not in the approved form and I cancel the landlord's attempt to end the tenancy, which is not authorized under the Act and has no force or effect.

I ORDER the tenancy to continue until ended in accordance with the Act.

As the tenant was successful, I grant the tenant a one-time rent reduction in the amount of **\$100** in full satisfaction of the recovery of the cost of the filing fee pursuant to section 72 of the Act.

Conclusion

The tenant's application is successful. The 4 Month Notice is not in the approved form and has no force or effect.

The tenancy has been ordered to continue until ended in accordance with the Act.

The tenant is granted a one-time rent reduction in the amount of \$100 in full satisfaction of the recovery of the cost of the filing fee pursuant to section 72 of the Act.

This decision will be emailed to both parties as indicated above.

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: April 17, 2023

Residential Tenancy Branch