



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CHILLIWACK KIWANIS HOUSING
SOCIETY and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes Tenant's application 1: CNC LRE OLC
Tenant's application 2: CNQ LRE OLC
Landlord's application: OPC FF

Introduction

This hearing dealt with cross Applications for Dispute Resolution filed by the parties. The participatory hearing was held, via teleconference, on July 18, 2024.

Both parties attended the hearing and provided testimony.

Tenant's applications

The Landlord confirmed receipt of the Tenant's Notice of Dispute Resolution Proceeding for the first and the second application. The Tenant included her evidence in these packages. I find they were sufficiently served, as the Landlord received them and did not take issue with service.

Landlord's application

The Landlord stated he sent his Notice of Dispute Resolution Proceeding and evidence package by registered mail. During the hearing, the Landlord provided his mail tracking number, and both parties consented to me looking up the tracking information on the Canada Post website. A search revealed that no such tracking number exists. I find the Landlord has failed to sufficiently demonstrate that he served the Tenant with his Notice of Dispute Resolution Proceeding and evidence. I hereby dismiss the Landlord's application, in full, without leave. Also, since the Landlord's evidence was allegedly part of this package, I find it is not admissible, as it has not been sufficiently served to the Tenant.

During the hearing, I made the Tenant aware that she did not provide a copy of either of the Notices to End Tenancy that she sought to cancel. The Tenant agreed to admit the Landlord's copy of the 1 month notice into evidence, so that we could have a hearing on that notice. She was okay with this because she had a copy of the 1 month notice, so there was no prejudice. However, since she had not received the rest of the Landlord's evidence, she did not agree to admit the rest of it.

With respect to the Tenant's application to cancel the 2 month notice, I note she failed to provide a copy of this Notice, and so did the Landlord. Since neither party provided a copy of the 2 month notice, I hereby dismiss the application to cancel the 2 month notice, with leave. However, this does not extend any statutory deadlines under the Act.

Both parties were provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Preliminary and Procedural Matters

The Tenant applied for multiple remedies under the *Residential Tenancy Act* (the "Act"), some of which were not sufficiently related to one another.

Section 2.3 of the Rules of Procedure states that claims made in an Application must be related to each other and that arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.

After looking at the list of issues before me at the start of the hearing, I determined that the most pressing and related issues before me deal with whether or not the tenancy is ending. As a result, I exercised my discretion to dismiss, with leave to reapply, all of the grounds on all applications with the exception of the following ground:

- to cancel a 1 Month Notice to End Tenancy for Cause (the "Notice").

Issue(s) to be Decided

- Is the Tenant entitled to have the Landlord's Notice cancelled?
 - If not, is the Landlord entitled to an Order of Possession?

Background and Evidence

The Tenant acknowledged receiving the Notice on May 17, 2024. The Notice indicates the following reasons for ending the tenancy on the second page:

1. Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

The Landlord issued the Notice because:

Details of the Event(s):

The tenant is housing an authorized pet(dog). Term 24 of the tenancy agreement is very specific in that no pets are permitted. This is a breach of a material term of your agreement. The tenant was requested to comply to the tenancy agreement by the 10th May 2024. To this point in time the tenant has failed to comply with the letter dated 25 April 2024.

The Landlord stated that he provided a letter to the Tenant specifying the breach of the material term, which the Tenant failed to comply with, which is why he issued this Notice. The Landlord also pointed to complaints he has received from others in the complex regarding this dog.

The Tenant asserts this is her emotional support animal, so it is important for her to keep this dog for her emotional health. The Tenant denies that the dog is causing problems, or that she is in contravention of her tenancy agreement.

No tenancy agreement was provided into evidence by the Tenant, and the Landlord's documentary evidence is not admissible, since it was not served properly.

Analysis

In this review, I will not attempt to resolve all evidentiary conflicts, and will focus on evidence and testimony as it relates directly to my findings with respect to whether there are sufficient grounds to end the tenancy.

In the matter before me, the Landlord has the onus to prove that the reasons in the Notice are valid.

I have considered the totality of the admissible evidence and testimony, and I find it important to note that the Landlord had no admissible documentary evidence showing the term in the tenancy agreement that it being breached, and there is also no evidence supporting that he gave a written breach notice to the Tenant, such that he could then issue this Notice for failing to comply with a material term of the tenancy agreement, after written notice was given. Without further evidence, I find the Landlord has failed to sufficiently demonstrate that he has cause to end the tenancy for breach of a material term.

The Tenant's application to cancel the 1 month notice is successful and the Notice received by the Tenant on May 17, 2024, is cancelled. I order the tenancy to continue until ended in accordance with the *Act*.

Conclusion

The Tenant's application is successful. The 1 month notice is cancelled.

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: July 18, 2024

Residential Tenancy Branch