

DECISION

Dispute Codes CNC, CNR, OLC, OPC, FF

Introduction

This hearing dealt with cross Applications for Dispute Resolution, filed by both parties.

The Tenant applied to cancel a one month Notice to End Tenancy issued to him for cause, being repeated late payment of rent, a 10 day Notice to End Tenancy for unpaid rent and to have the Landlord comply with the Act.

The Landlord applied for an order of possession based on the one month Notice to End Tenancy issued for cause.

Both parties applied to have their filing fee returned. Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

Issues(s) to be Decided

Should the Landlord's Notices to End Tenancy be cancelled?

Should the Landlord be granted an order of possession?

Background and Evidence

On June 2, 2009, the Landlord issued the Tenant a one month Notice to End Tenancy issued for cause, indicating the rent had been repeatedly paid late by the Tenant.

In evidence the Landlord submitted copies of rent payment receipts issued to the Tenant dated April 7, May 7, and June 2, of 2009. While it was not relevant to this matter before me, the evidence also indicated the Tenant was late paying the July 2009 rent as well, after receiving the Notice regarding late payment of rent.

The Tenant argued that the one month Notice to End Tenancy should be cancelled since he paid his rent on June 2, 2009 and the Landlord accepted this rent, then issued the Notice to End Tenancy. The Tenant says the Landlord should not have issued the Notice after he paid the rent, as this invalidated the Notice. The Tenant testified that had the Landlord issued the Notice to End Tenancy for late payment of rent to him before he paid the June rent, he would not have paid the June rent.

The Tenant explained his room mate left the unit, so he was having trouble paying the full rent on his own. He also claimed he talked directly to the Landlord, not the Agent for

the Landlord present at the hearing, and that the Landlord had said in this conversation that the Tenant could stay in the unit.

The Tenant agreed that the rent had been paid late on these occasions and did not dispute the dates the receipts were issued.

Both parties agreed that the rent payment is due on the first day of the month.

Analysis

The Residential Tenancy Act and policy guidelines require that rent be paid on the date it is due under the tenancy agreement. In this case, the evidence is clear that the rent was due on the first day of the month and that the Tenant has paid his rent late three months in a row.

Under the Act and policy guides, three instances of late payment of rent are sufficient for the Landlord to end the tenancy due to repeated late payment of rent, under a one month Notice to End Tenancy for cause.

I find the Tenant was late paying rent for April, May and June of 2009. I find the Tenant provided insufficient evidence to support any of his other claims.

Therefore, based on the foregoing, the evidence and testimony, and on a balance of probabilities, I find that the Tenant's Application must be dismissed, as the one month Notice to End Tenancy is valid and effective for July 31, 2009.

I allow the Landlord's Application, and will issue an order of possession effective at **1:00 p.m. July 31, 2009**. As the Landlord was successful in this matter, I allow the Landlord to deduct \$50.00 from the security deposit and interest held, for the filing fee for this Application.

Conclusion

The Tenant was late paying rent three months in a row. The Notice to End Tenancy for repeated late payment of rent is valid and the Tenant must vacate the unit under the order of possession granted to the Landlord.

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 17, 2009.
