

Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

Decision

Dispute Codes: CNC, MNDC, OPC, OPB, O, FF

Introduction

This hearing dealt with an application by the tenant for an order setting aside a notice to end this tenancy and a monetary order and a cross-application by the landlord for an order of possession and an order authorizing him to change the locks on the rental unit. Both parties participated in the conference call hearing.

At the outset of the hearing I advised the tenant that I would not be hearing his monetary claim as he provided no particulars of that claim as is required by Rule 3.1 of the Residential Tenancy Branch Rules of Procedure. The monetary claim is dismissed.

Issue(s) to be Decided

Does the landlord have grounds to end the tenancy?

Background and Evidence

The parties agreed that the tenant was served with a one month notice to end tenancy for cause (the "Notice") on July 31, 2009. The Notice purported to end the tenancy on a number of grounds, one of which was repeated late payment of rent. The parties agreed that the tenant had paid rent late in August 2008, February 2009, May 2009 and July 2009.

Analysis

Residential Tenancy Policy Guideline #38 provides that 3 late payments are sufficient to support a notice to end tenancy. I find that the landlord has proven that there are grounds to end this tenancy and accordingly I dismiss the tenant's application and find that the landlord is entitled to an order of possession. The tenant must be served with the order of possession. If the tenant fails to comply with the order, the order may be

filed with the Supreme Court and enforced as an order of that Court.

As the landlord is entitled to change the locks once the tenant vacates the rental unit or the order of possession has been enforced by a court appointed bailiff, I find it unnecessary to give the landlord an order permitting him to change the locks on the rental unit and accordingly dismiss that claim.

I find that the parties must each bear the cost of their filing fees. The tenant's application was unsuccessful and the landlord's application was unnecessary as the Act permits a landlord to make an oral request for an order of possession at a hearing dealing with a tenant's claim for an order setting aside a notice to end tenancy.

I note that this decision has been made solely on the issue of repeated late payment of rent. I have heard no evidence and make no finding on other allegations contained in the Notice.

Conclusion

The tenant's application is dismissed. The landlord is granted an order of possession.

Dated September 17, 2009.