



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with the tenant's application to cancel a *1 Month Notice to End Tenancy for Cause*. Both parties appeared at the hearing and were provided the opportunity to be heard and to respond to the other party's submissions. Both parties confirmed service of evidence upon the other party.

Issues(s) to be Decided

1. Are there grounds to end this tenancy?
2. Effective date for Order of Possession.

Background and Evidence

Upon considering all of the evidence before me, I make the following findings. The tenant was served with a *1 Month Notice to End Tenancy for Cause* (the Notice) on August 12, 2009. The Notice has an effective date of September 30, 2009 and indicates the reason for ending the tenancy is because the tenant has been repeatedly late paying rent. The tenant owes \$692.00 in rent and late fees from September 2009 and has not paid any amount for use and occupation for October 2009.

The tenant conceded she has had difficulty affording the rent and she no longer wished to dispute the Notice but the tenant requested more time to vacate the rental unit. The tenant submitted that she has a truck and mover arranged for October 11, 2009. Vacating before October 11, 2009 would be extremely difficult given her current medical issues and limited financial resources.

The landlord did not dispute that the tenant has suffered from medical issues; however, the landlord requested an Order of Possession effective two days after service upon the tenant on the basis the tenant has had ample opportunity to prepare to move and the tenant was given the opportunity to pay for occupation until October 31, 2009. Further, the landlord has significant doubts about the tenant's ability to compensate the landlord for loss of rent incurred for October 2009 and landlord is trying to mitigate their loss of rent for the month of October 2009 by having possession of the unit as soon as possible. The landlord expects to regain possession effective October 5, 2009 and the



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landlord is prepared to obtain a Writ of Possession and obtain a bailiff is the tenant does not vacate.

An attempt to facilitate a mutual agreement between the parties was made; however, the parties could not reach an agreement.

Analysis

Upon review of the tenant's payment history and the tenant's concession that paying rent on time has been a challenge for the tenant, I find the Notice to be valid and enforceable. Therefore, the tenancy legally ended September 30, 2009. Since the tenant has continued to occupy the rental unit and the landlord requested an Order of Possession I find the landlord an entitled to an Order of Possession pursuant to section 55(2) of the Act.

Section 55(3) provides that a Dispute Resolution Officer may grant an Order of Possession after the date the tenant is required to vacate the rental unit, and the Order takes effect on that date.

While I appreciate the landlord's stated intent to mitigate loss of rent I also find that it is unlikely the tenant will be able to vacate by October 5, 2009 and costs will likely be incurred for costs of a bailiff to empty the rental unit after October 5, 2009; therefore, I do not find a net savings to the landlord by providing an Order of Possession effective two days after service. Accordingly, I grant the tenant's request for an Order of Possession effective October 11, 2009.

Conclusion

The tenancy has ended and the landlord is provided an Order of Possession with an effective date of October 11, 2009.

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: October 02, 2009.

Dispute Resolution Officer