



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes OPC, MT, CNR, RP

Introduction

This hearing dealt with cross Applications for Dispute Resolution. The landlord has applied for an order of possession and the tenant has applied to cancel the Notice to End Tenancy and for an order for the landlord to make repairs.

Issues(s) to be Decided

The issues to be decided are whether the landlord is entitled to an Order of Possession for cause, pursuant to sections 47 and 55 of the *Residential Tenancy Act (Act)*.

It must also be decided if the tenant can cancel the Notice to Notice to End Tenancy for Cause and for an order to make repairs to the unit or property, pursuant to sections 32 and 47 of the *Act*.

Background and Evidence

The landlord has submitted the following into documentary evidence:

- A copy of a tenancy agreement signed by the parties on November 30, 2007 for a month to month tenancy for rent in the amount of \$600.00 per month due on the 1st of the month. A security deposit of \$300.00 was paid on November 1, 2007;
- 5 – 10 Day Notices to End Tenancy for Unpaid Rent, for the months of August, September, October, November, and December 2009;
- A copy of a 1 Month Notice to End Tenancy for Cause with an effective vacancy date of December 31, 2009, citing the tenant has repeatedly paid rent late; that the tenant or a person permitted on the property has significantly interfered with or unreasonably disturbed another occupant or the landlord; and that the tenant has assigned or sublet the rental unit without the landlord's consent;
- A summary of events leading to the issuance of the 1 Month Notice;
- Some letters from other residents regarding alleged disturbances caused by this tenant.

The tenant has submitted the following documents:

- A copy of a tenancy agreement signed by the parties on November 30, 2007 for a month to month tenancy for rent in the amount of \$600.00 per month due on the 1st of the month. A security deposit of \$300.00 was paid on November 1, 2007;
- 4 – 10 Day Notices to End Tenancy for Unpaid Rent, for the months of August, September, October, and November 2009;
- A copy of a 1 Month Notice to End Tenancy for Cause with an effective vacancy date of December 31, 2009, citing the tenant has repeatedly paid rent late; that the tenant or a person permitted on the property has significantly interfered with or unreasonably disturbed another occupant or the landlord; and that the tenant has assigned or sublet the rental unit without the landlord's consent;
- A hand drawn map of the property;
- A summary of the tenant's responses to the landlords Application; and
- Copies of money orders and rent receipts showing payment dates and a summary of dates of payment of rent showing that according to the tenant he has been late paying rent 9 out of 17 times.

In testimony from both the landlord and the tenant both parties agree that full rent for at least August, September, October, November and December of 2009 has not been paid on the due date of the 1st of the month.

The landlord testified that at the start of the tenancy he had agreed to let the tenant pay his rent in instalments which did result in some late payments, but that he had started asking the tenant verbally to start paying it on time and when this failed he started issuing him 10 Day Notices.

Analysis

Section 47 of the *Act* allows the landlord to end a tenancy if the tenant is repeatedly late in paying their rent. The Residential Tenancy Policy Guidelines state that three late payments are the minimum number that is sufficient to justify a notice under these provisions. By both the landlord's and tenant's testimony I find that the threshold of 3 late payments has been met.

There was a question regarding the dates of the 1 Month Notice submitted into evidence. The one submitted by the landlord is dated November 6, 2009 but the one submitted by the tenant is dated November 8, 2009. The landlord could provide no explanation for this. While I find this unusual, I am satisfied that the tenant was served with a Notice to End Tenancy pursuant to Sections 47 and 52 of the *Act*.

As the landlord has established sufficient grounds to end the tenancy on this issue of repeated late payments of rent, I find there is no need to assess the other matters of cause citing on the Notice to End Tenancy or the tenant's additional issue of repairs. Both parties agreed to this during the hearing.

Conclusion

I find that the landlord is entitled to an Order of Possession effective **December 31, 2009**. This order must be served on the tenant and may be filed in the Supreme Court and enforced as an order of that Court.

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: December 22, 2009.

Dispute Resolution Officer