

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with an Application for Dispute Resolution by the Tenant to cancel a 1 Month Notice to End Tenancy for Cause.

Service of the hearing documents, by the Tenant to the Landlord, was done in accordance with section 89 of the *Act*, sent via registered mail on December 22, 2009. The landlord confirmed receipt of the hearing package.

Both the Landlord and Tenant appeared, acknowledged receipt of evidence submitted by the other, gave affirmed testimony, were provided the opportunity to present their evidence orally, in writing, and in documentary form.

All of the testimony and documentary evidence was carefully considered.

Issues(s) to be Decided

Has the Tenant proven entitlement to an Order under sections 47 of the *Residential Tenancy Act*?

Background and Evidence

The verbal tenancy agreement began on September 1, 2004 on a month to month basis. The current monthly rent is payable on the first of each month in the amount of \$500.00. The Tenant paid a security deposit of \$250.00 on September 1, 2004. The current Landlord has been working as Agent to the Owner since October 1, 2009.

The Landlord referred to his documentary evidence of rent receipts in support that the Tenant has not paid his rent on the 1st of each month and has made the payments late on October 5, 2009, November 3, 2009, December 2, 2009, and January 9, 2010.

The Landlord argued that a 10 Day Notices to End Tenancy was served personally to the Tenant on October 5, 2009 and the Tenant paid the rent in full later the same day.

The Landlord testified that when the Tenant continued to pay his rent late the 1 Month Notice to End Tenancy for Cause was issued and served personally to the Tenant on December 14, 2009. The Tenant applied to dispute the notice and continued to pay his rent late so another 10 Day Notice to End Tenancy was issued and served personally to the Tenant on January 3, 2010. The Tenant did not pay his rent within the required five days of receiving the 10 Day Notice however paid his rent on January 9, 2010 for which a receipt was issued for "use and occupancy only" and supported by the documentary evidence.

The Landlord testified that he has attended the hearing to request an Order of Possession and have the Tenant move out of the rental unit effective January 31, 2010.

The Tenant argued that he had told the Landlord every month that he would be late paying his rent. The Tenant stated that he had a verbal agreement with the Landlord to pay his rent late because he told the Landlord that he could not get to the bank to pay his rent on time. When asked how he determined he had an agreement with the Landlord when he "told" the Landlord the rent would be late the Tenant responded "I had no agreement with the Landlord".

Analysis

Upon review of the 1 Month Notice to End Tenancy, I find the Notice to be completed in accordance with the requirements of the Act and I find that it was served upon the

Tenant in a manner that complies with the Act. Upon consideration of all the evidence presented to me, I find the Landlord had valid reasons for issuing the 1 Month Notice.

The Tenant has failed to provide evidence to support his request to cancel the 1 Month Notice to End Tenancy issued for cause and I hereby dismiss the Tenant's application, without leave to reapply.

Section 55 of the Act provides that an Order of Possession must be provided to a Landlord if a Tenant's request to dispute a Notice to End Tenancy is dismissed and the Landlord makes an oral request for an Order of Possession during the scheduled hearing.

I note that the January 3, 2010, 10 Day Notice to End Tenancy for unpaid rent was not disputed by the Tenant and the Tenant failed to pay his January rent within the required five days. The Tenant could also be presumed to have accepted that the tenancy ended based on this 10 Day Notice.

Conclusion

I HEREBY FIND that the landlord is entitled to an Order of Possession effective **on January 31, 2010 at 1:00 p.m.** This order must be served on the Respondent 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: January 28, 2010.

Dispute Resolution Officer