



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes CNC, MT, FF

Introduction

Some documentary evidence and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

Issues(s) to be Decided

This is a request to have a section 47 Notice to End Tenancy cancelled and a request that the respondent bear the \$50.00 cost of the filing fee that was paid for this hearing.

Background and Evidence

On December 18, 2009 the applicants were served with a one month Notice to End Tenancy for repeatedly rent payments.

The applicants testified that:

- Over the nine years that they have lived in the rental unit the landlords have not stressed the importance of paying the rent on the first of the month.
- In October 2009 they received an e-mail from the landlords stating that in future all rent must be paid on the first of the month.

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- They fully intended to comply with the landlords request, however due to an emergency surgery required by one of the applicants they lost a large portion of their income and as a result, although rent was paid in full, it was paid late in both the months of November 2009 and December 2009.
- They have subsequently paid January 2010 and February 2010 rent's on time and have committed to pay all future rent on or before the first of each month.

The applicants are therefore requesting that the Notice to End Tenancy be cancelled and that this tenancy be allowed to continue.

The respondent testified that:

- The tenants frequently have paid their rent late, and in fact rent is been late at least five times in the past year.
- In an attempt to ensure the rents were paid on time the tenants were sent an e-mail in October of 2009, informing them that rent was expected to be paid on time in future.
- Subsequent to sending that e-mail the rent was paid late two more times and as a result, on December 18, 2009, the landlords served the tenants with the Notice to End Tenancy for repeatedly late rent payments.

The respondent's therefore request that the request to cancel the Notice to End Tenancy be dismissed.



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Analysis

Section 47(1)(b) of the residential tenancy act states:

47 (1) A landlord may end a tenancy by giving notice to end the tenancy if:

(b) The tenant is repeatedly late paying rent

In this case the rent has been late on numerous occasions, (five in total in the past year), and therefore the landlord does have the right to end the tenancy for repeatedly payment of rent.

The tenant has stated the rent was only late in November and December of 2009 because of medical issues suffered by one of the tenants; however the Residential Tenancy Act does not look at why rent was late, only whether rent was late, and since rent was late on numerous occasions in 2009 I have no authority to cancel the Notice to End Tenancy.

Conclusion

This application is dismissed without leave to reapply.

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: February 10, 2010.

Dispute Resolution Officer