



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes OPC, CNC, FF

Introduction

This hearing dealt with Cross Applications for Dispute Resolution.

The Tenant applied to cancel a One Month Notice to End Tenancy for Cause.

The Landlord applied for an Order for Possession ending the tenancy for cause, a monetary Order for damage to the rental unit, an Order to keep all or part of the security deposit and to recover the filing fee for the Application.

Agents for the Landlord appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

The Tenants appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

Issues(s) to be Decided

Have the Tenants breached the Act or tenancy agreement, entitling the Landlord to an Order for Possession and Monetary Relief?

Are the Tenants entitled to an Order cancelling the One Month Notice to End Tenancy for Cause?

Background and Evidence

This tenancy started June 1, 2005, as a fixed term tenancy and continues now on a month to month basis. Monthly rent is \$1,055.00 and a security deposit in the amount of \$465.00 was paid on May 29, 2005.

The Landlord issued a one month Notice to End Tenancy to the Tenants on August 8, 2010, by posting on the door, with a stated effective date of September 8, 2010. I note the effective date indicated on the Notice is ineffective and automatically corrects under the Act to the last day of the month, or September 30, 2010.

The Agent for the Landlord supplied evidence and gave affirmed testimony that the Tenants are repeatedly late in paying rent, having made late payments in April, May, June and August, 2010. The Tenants confirmed this testimony.

The Agent for the Landlord also supplied evidence and gave affirmed testimony that the Tenants or persons permitted on the residential property by the Tenants significantly interfered with or unreasonably disturbed other occupants of the residential property. The Tenants disputed this evidence, denied receiving a copy of the Landlord's evidence and disputed that they or a person allowed by them on the residential property had caused any interference or disturbance to other occupants.

I find it unnecessary to consider this conflicting testimony due to the Tenants' confirmation of repeated late payments of rent.

The Agent for the Landlord withdrew the request for a monetary order for damage to the unit, site or property, requesting to retain the security deposit in lieu of any damage incurred. Although the Landlord supplied no evidence of damage to the property, I find the matter of the security deposit is premature and must be addressed at the end of the tenancy.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

I find that the one month Notice to End Tenancy is valid and it should not be cancelled and therefore I dismiss the Application of the Tenants and allow the Application of the Landlord.

I find that the Landlord is entitled to an order of possession effective **at 1:00 p.m. on September 30, 2010**, after service on the Tenants. This order may be filed in the Supreme Court and enforced as an order of that Court.

I find that the Landlord has established a total monetary claim of the \$50.00 fee paid by the Landlord for this application.

I order that the Landlord withhold \$50.00 from the security deposit and interest of **\$481.48**, in satisfaction of the claim, and that the balance be addressed at the close of the tenancy, in accordance with the Act.

Conclusion

The Tenants' Application for Dispute Resolution is dismissed as the Notice to End Tenancy issued is valid and maybe enforced.

The Landlord is granted an Order of Possession and may keep \$50.00 of the security deposit in satisfaction of the claim.

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: September 08, 2010.

Dispute Resolution Officer