



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes:

CNC, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant to cancel a One-Month Notice to End Tenancy for Cause dated September 20, 2010, purporting to be effective October 31, 2010. Both parties appeared and each gave testimony in turn.

Issue(s) to be Decided

The issue to be determined based on the testimony and evidence is whether the landlord's issuance of the One-Month Notice to End Tenancy for Cause was warranted or should be cancelled as requested by the Tenant. This requires a determination of whether the tenant was repeatedly late paying rent.

The burden of proof is on the landlord/respondent to justify that the reason for the Notice to End Tenancy meets the criteria specified under section 47 of the Act.

Background and Evidence: One-Month Notice for Cause

The tenancy began in 2000 and the current rent is set at \$783.00 due on the first day of each month. Evidence was submitted by the applicant consisting of a copy of a One-Month Notice to End Tenancy for Cause dated September 10, 2010.

The landlord testified that the tenant was chronically late in paying rent during the tenancy and although the late payments were tolerated before, more recently the landlord has issued written warnings cautioning the tenant that rent is due on the first day of the month. No copies of the warnings were submitted into evidence. The landlord's position was that the tenant was fully aware that rent was due on the first day of the month yet persisted in repeatedly paying late which would be a valid reason to issue and enforce a Notice to end Tenancy for Cause.

The tenant testified that although she had paid rent late in the past, she would let the landlord know and this was accepted as a practice. The tenant testified that she does not recall ever receiving written warnings. The tenant testified that she has paid rent on

time for September, October and November 2010 and plans to continue to adhere to the tenancy agreement which requires payment on the first day of the month.

Analysis:

In regards to the issue of repeated late payment of rent, I find that the testimony and evidence of both parties confirm that this did transpire. I find that the testimony of the landlord regarding warnings was disputed by the tenant and was not supported with evidence.

I accept the tenant's testimony that late payments were implicitly accepted by the landlord in the past. However, this practice will no longer be acceptable. Section 26 of the Act specifically requires that a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with the Act, the regulations or the tenancy agreement. Under section 47, repeated late payment of rent is a valid basis upon which the landlord may end the tenancy for cause.

I find that the One-Month Notice to End Tenancy for Cause must be dismissed. That being said, the tenant should now be aware that paying the rent late is a serious violation of both the Act and that the tenancy agreement and if repeated could result in termination of the tenancy under section 47.

Conclusion

Based on the evidence and testimony, I hereby cancel the One-Month Notice to End Tenancy dated September 20, 2010. In doing so, I caution the tenant that repeated late payment of rent is clear justification under section 47 to terminate the tenancy as is persistent confrontational or bothersome conduct that significantly interferes with the landlord or others.

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: November 2010.

Dispute Resolution Officer