



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes CNC, FF

Introduction

A substantial amount of 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.

Issue(s) to be Decided

This is an application to cancel a section 47 Notice to End Tenancy that was given for repeated late rent payments. The applicant is also requesting that the respondent's bear the \$50.00 cost of the filing fee be paid for his application for dispute resolution.

Background and Evidence

Both parties agreed that:

- The tenant was personally served with a one month Notice to End Tenancy for cause on January 8, 2011.
- Rental payments are due on the 5th and 19th of each month.

The landlords testified that:

- The tenant has been late paying the rent on at least 50 occasions since they became landlords in July of 2007.
- They have also served the tenant with at least 10, 10 day Notices to End Tenancy over the term of the tenancy.
- They believe they have been more than patient with this tenant however since he does not appear to take paying the rent on time seriously; they have decided to end the tenancy.

The landlords are therefore requesting that the Notice to End Tenancy be upheld and that an Order of Possession be issued.

The tenant testified that:

- The rent has been late on numerous occasions however it is usually only one or two days late and it has always been paid.
- When he agreed to pay rent on the 5th and 19th of each month he was able to get his pay on those dates however his pay now comes on the 7th and 21st of each month.
- He therefore pays his rent when he gets paid, usually on the 7th & 21st of the month.

The tenant therefore believes that since he always pays his rent as soon as he is able, the Notice to End Tenancy should be cancelled and this tenancy should continue.

Analysis

It is the tenant's responsibility to ensure that rent is paid on the due date, and in this case the agreement was that rent would be paid in two payments per month, with one half of the rent being paid on the 5th of the month, and the other half of the rent being paid on the 19th of the month.

The tenant has admitted that there have been numerous occasions where he has not paid the rent on the 5th or the 19th of the month because he had not yet been paid at work.

However no matter what the reason, if the tenant repeatedly fails to pay his rent on the due date, the Residential Tenancy Act allows the landlord to end the tenancy. Rent is generally considered repeatedly late if it is been paid late on three or more occasions, and in this case the rent has been late far more often than that.

Therefore the landlord does have the right to end this tenancy and I will not be cancelling the Notice to End Tenancy.

Conclusion

The tenant's application is dismissed in full without leave to reapply and I have issued an Order of Possession to the landlords on 1 p.m. on February 28, 2011.

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 26, 2011.

Residential Tenancy Branch