



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding AMACON PROPERTY MANAGEMENT SERVICES INC
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with an Application for Dispute Resolution by the Tenants to cancel a Notice to end tenancy issued for cause.

The parties appeared at the teleconference hearing, acknowledged receipt of evidence submitted by the other and gave affirmed testimony. At the outset of the hearing I explained how the hearing would proceed and the expectations for conduct during the hearing, in accordance with the Rules of Procedure. Each party was provided an opportunity to ask questions about the process however each declined and acknowledged that they understood how the conference would proceed.

During the hearing each party was given the opportunity to provide their evidence orally, respond to each other's testimony, and to provide closing remarks. A summary of the testimony is provided below and includes only that which is relevant to the matters before me.

Issue(s) to be Decided

Should the 1 Month Notice issued January 7, 2013 be cancelled or upheld?

Background and Evidence

The Tenants submitted documentary evidence which included, among other things, copies of: their written statement; a payment receipt dated January 2, 2013; 1 Month Notice to end tenancy for cause dated January 7, 2013; letters and breach notices dated December 3, December 6, December 21, 2012 and January 2, and January 10, 2013 issued by the Landlord; two 10 Day Notices; the tenancy agreement; and the Tenants' banking information.

The Landlord submitted documentary evidence which included, among other things, copies of: the Landlord's written statement.

The parties confirmed they entered into a fixed term tenancy agreement that began on September 1, 2012 and is set to switch to a month to month tenancy on February 28, 2013. Rent is payable on the first of each month in the amount of \$950.00 and on or before September 1, 2012 the Tenants paid \$475.00 as the security deposit.

The Tenant confirmed that she received the 1 Month Notice to end tenancy on January 8, 2013, the morning after it was posted to her door. She acknowledged that she did not file her application for dispute resolution until January 21, 2013 and argued that she was told that was the latest date she could file.

The Tenant stated that she did not file her application sooner because she was waiting for a signed copy of her tenancy agreement and it took her time to get proof of her income to file for a fee waiver. She did not request more time to file her application because she was told she filed on time.

When asked if the Landlords had anything further they stated that they "wanted the Tenants to move out of the rental unit on their own". They had no further comment.

Analysis

Upon review of the 1 Month Notice to End Tenancy, I find the Notice to be completed in accordance with the requirements of section 52 of the Act and I find that it was served upon the Tenants in a manner that complies with section 89 of the Act.

When a tenant receives a 1 Month Notice to end tenancy for unpaid rent they have (10) ten days to make application to dispute the Notice or the tenancy ends. The evidence supports the 1 Month Notice was posted to the Tenant's door on January 7, 2013 and the effective date of the Notice is February 28, 2013.

The Tenants confirmed they received the 1 Month Notice on the morning of January 8, 2013. Therefore, the Tenants were required to file their application for dispute resolution no later than January 18, 2013, in accordance with section 47 of the Act. The Tenants did not file their application to dispute the Notice until January 21, 2013, thirteen days after they received it.

Even though the Tenants did not request more time to make their application, I find that the reasons provided for the delay in filing their application would not meet the definition

of extenuating circumstances. Therefore, I find an extension to make the application would not be granted under Section 66 of the *Residential Tenancy Act*.

Based on the foregoing, the Tenants are conclusively presumed to have accepted that the tenancy ends on **February 28, 2013**, the effective date of the Notice and must vacate the rental unit to which the notice relates, pursuant to section 47(5) of the *Act*.

Conclusion

I HEREBY DISMISS the Tenants' application, without leave to reapply. This tenancy ends on **February 28, 2013**, the effective date of the Notice.

The Landlords are at liberty to file for an Order of Possession if the Tenants do not vacate the rental unit in accordance with the 1 Month Notice.

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 18, 2013

Residential Tenancy Branch

