



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with the tenant's Application for Dispute Resolution seeking to cancel a notice to end tenancy.

The hearing was conducted via teleconference and was attended by the tenant's agent and two agents for the landlord.

During the hearing, the landlord's agents did not verbally request an order of possession should the tenant be unsuccessful in her Application.

Issue(s) to be Decided

The issues to be decided are whether the tenant is entitled to cancel a 1 Month Notice to End Tenancy for Cause, pursuant to Section 47 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The parties agreed the tenancy began on December 1, 2012 as a 1 year fixed term tenancy for a monthly rent of \$1,250.00 due on the 1st of each month with a security deposit of \$625.00 paid.

The parties also agreed the landlord posted a 1 Month Notice to End Tenancy for Cause to the tenant's rental unit door on March 8, 2013 with an effective date of April 30, 2013 citing the tenant had been repeatedly late paying rent and the tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord.

I note that on the copy of the Notice provided into evidence the word "repeatedly" is stroked out on the notice and a notation indicating "1 x" was added to the phrase "tenant is repeatedly late paying rent."

The tenant's agent testified that the tenant received the 1 Month Notice on March 8, 2013 but that he had been advised that the notice would not be considered as received until 3 days later or March 11, 2013.

The Notice stipulates that a tenant wishing to dispute the Notice has 10 days from the date the Notice was received to file an Application for Dispute Resolution seeking to cancel the Notice. The tenant's Application, completed online, is dated Friday, March 22, 2013 at 9:02 p.m. and as such would not have been accepted until the next business day.

Analysis

Section 47 of the *Act* allows a landlord to end a tenancy by giving notice to end the tenancy if one or more of the following applies:

- a) The tenant is repeatedly late paying rent;
- b) The tenant or a person permitted on the residential property by the tenant has
 - i. Significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property.

I have reviewed all relevant evidence testimony and accept that the tenant had been served with notice to end tenancy as declared by the landlord. The notice was received by the tenant on March 8, 2013 and the effective date of the notice is April 30, 2013. Even if I were to accept the tenant's agent's argument that he had 10 days from the 3rd day after the Notice was posted the tenant would have had to have submitted her Application no later than March 21, 2013.

I find, based on the evidence before me that the tenant failed to submit an Application for Dispute Resolution seeking to cancel the Notice within the 10 days granted under Section 47(4) of the *Act*. Based on the foregoing, I find the tenant is conclusively presumed under Section 47(5) of the *Act* to have accepted that the tenancy ended on the effective date of the Notice.

Conclusion

Based on the above, I dismiss the tenant's Application in its entirety.

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: April 23, 2013

Residential Tenancy Branch