



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

This is an application to cancel a Notice to End Tenancy.

A substantial amount of documentary evidence, photo 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

The issue is whether or not to uphold or cancel a Notice to End Tenancy.

Background and Evidence

On October 4, 2013 the landlord personally served the tenant with a one-month Notice to End Tenancy listing the following reasons:

- Tenant is repeatedly late paying rent
- Tenant or person permitted on the property by the tenant has significantly interfered with or unreasonably disturbing other occupant or the landlord

I dealt first with the allegation of repeatedly late rent payments.

The landlords testified that:

- The tenant has been late with the rent on four occasions.

- The July rent was not paid until July 25, 2013.
- The August rent was not paid until August 8, 2013.
- The October rent was not paid until October 4, 2013.
- The November rent was not paid until November 7, 2013.

The tenant testified that:

- She does admit that the July 2013 rent was late.
- She believes that she paid the August 2013 rent early, paying it at the same time as the July 2013 rent.
- The October 2013 rent was late, but that was because the landlords were going to be out of town and wanted her to make arrangements to pay the rent early and she was unable to do so. She therefore paid the October 2013 rent when the landlord's returned.
- She paid the November 2013 rent on November 7, 2013, because the landlords have given her a 10 day Notice to End Tenancy and therefore with the five-day grace period she didn't have to pay until November 7.

Analysis

It's my finding that the landlord has shown that the tenant has paid the rent late on four occasions.

The tenant admits that the July 2013 rent was late.

The landlords have provided evidence that shows that on August 8, 2013 the tenant had not yet paid the August 2013 rent, and it appears that it was the September 2013 rent that was paid early, not the August 2013 rent, as stated by the tenant.

The tenant admits that the October 2013 rent was late; however she believes that she was unable to pay on time due to the landlords not being available. The landlords however had informed the tenant on September 28, 2013 that they would be away and therefore the tenant did have an opportunity to make arrangements to pay the rent by some other method.

The tenant admits that the November 2013 rent was paid late.

The Residential Tenancy Act allows the landlord to end the tenancy if the rent is repeatedly late, and therefore I will not be canceling this Notice to End Tenancy.

Having upheld the Notice to End Tenancy for repeated late rent, I make no finding on the second reason given on the notice.

Conclusion

This application to cancel a Notice to End Tenancy is dismissed without leave to reapply and upon application from the landlords I've issued an Order of Possession for 1:00 PM on November 30, 2013.

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 25, 2013

Residential Tenancy Branch

