



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MT, MNDC, MNSD, O

Introduction

This hearing was scheduled to deal with a tenant's request for more time to dispute a 1 Month Notice to End Tenancy for Cause; a Monetary Order for return of the security deposit and damage or loss under the Act, regulations or tenancy agreement; and, other issues. Both parties appeared or were represented at the hearing and were provided the opportunity to make relevant submissions, in writing and orally pursuant to the Rules of Procedure, and to respond to the submissions of the other party.

Preliminary and Procedural Matters

The landlord raised an issue with respect to service of the hearing package. The landlord acknowledged receiving the tenant's Application for Dispute Resolution and Notice of Hearing but stated he was not served with the Fact Sheets for dispute resolution proceedings that are to be included in the hearing package. In the absence of these documents, the landlord was uncertain as to how to submit evidence in response to the tenant's claims. The tenants requested their monetary claim be withdrawn at this time with leave to reapply. In light of these circumstances, I granted the tenants' request and dismissed their monetary claim with leave.

As evidence for this proceeding, the tenants had been provided a copy of a 1 Month Notice to End tenancy for Cause. The tenants withdrew their request to cancel the 1 Month Notice as they do not want to continue the tenancy since they have found another place to live starting January 4, 2014. The tenants did point out, however, that the stated effective date on the Notice is incorrect. As such, the tenants indicated they wanted more time to move out of the rental unit.

The landlord was not agreeable to allowing the tenants more time to move out, claiming the tenants have not paid rent for December 2013. Both parties attempted to introduce evidence pertaining to a 10 Day Notice to End Tenancy for Unpaid Rent and attempts to pay rent for December 2013. As neither party had filed, or amended an existing

Application, to deal with a 10 Day Notice, or provided a copy of the 10 Day Notice, I informed the parties that I would not make any findings or orders with respect to a 10 Day Notice or attempts to pay rent for December 2013. The landlord requested that an Order of Possession be provided based upon the 1 Month Notice to End Tenancy for Cause.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession for cause?

Background and Evidence

The parties confirmed that the tenants are required to pay rent on the 1st day of every month. On November 19, 2013 the landlord, as agent for the owner, issued a 1 Month Notice to End Tenancy for Cause (the Notice) to the tenants and posted it to their door. The Notice has a stated effective date of December 22, 2013.

Analysis

The effective date of a 1 Month Notice must be no earlier than one month after giving the Notice to the tenant and the day before rent is payable. Since the rent is payable on the 1st day of the month and the landlord gave the 1 Month Notice to the tenants in November 2013, the effective date must be no earlier December 31, 2013.

The Act provides that were an effective date is incorrect it automatically changes to comply with the requirements of the Act. An incorrect effective date does not invalidate the Notice. Therefore, I find the effective date on the 1 Month Notice given to the tenants has changed to read December 31, 2013.

Based upon the evidence before me, I find the tenancy ends December 31, 2013 based upon a 1 Month Notice that the tenants no longer wish to dispute. Therefore, I find the landlord entitled to an Order of Possession under section 55 of the Act.

Provided to the landlord with this decision is Order of Possession effective at 1:00 p.m. on December 31, 2013.

Conclusion

The tenant's withdrew their request to dispute a 1 Month Notice and the landlord's request for an Order of Possession effective on December 31, 2013 has been granted.

Provided to the landlord with this decision is an Order of Possession effective at 1:00 p.m. on December 31, 2013.

The tenant's monetary claim has been dismissed with leave to reapply.

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: December 20, 2013

Residential Tenancy Branch

