



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding NORCAN MANAGEMENT LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: CNR

Introduction

This hearing dealt with an application by the tenant for an order setting aside a notice to end tenancy for non-payment of rent. Both parties appeared and had an opportunity to be heard.

In response to an earlier application by the tenant, a previous hearing was held in a dispute between these parties on November 15, 2013. Pursuant to the decision dated November 18, 2013, the landlord's notice to end tenancy for cause was upheld and the landlord was granted an order of possession effective December 31, 2013.

Issue(s) to be Decided

Is the landlord entitled to an order of possession?

Background and Evidence

Pursuant to a written tenancy agreement, the tenancy began on June 1, 2002. A security deposit of \$330.00 was collected on May 22, 2002, and the current monthly rent is \$873.68 payable on the first of each month. The tenant is supported by a society that pays his rent in full directly to the landlord by way of a cheque drawn on the Society's bank account. Both parties agreed that since the start of tenancy more than ten years ago, the tenant's rent was paid in this manner on time and the cheques had never been returned for insufficient funds.

The landlord testified that in a letter dated October 15, 2012, the tenant was notified that the landlord had changed his policy regarding the instrument by which the tenant pays rent. The landlord would only accept money orders, drafts, certified cheques or cash. A copy of the letter was filed into evidence. Upon review of the letter, I find that the tone and the content of the letter come across as unpleasant and demanding. The letter has considerable text in bold and capital letters.

I further find that the letter makes at least one unreasonable demand which is in contravention of the *Residential Tenancy Act*. The landlord states that rent received after the first of the month will be subject to a late fee of \$20.00 to \$50.00 per day.

On November 01, the tenant's rent was paid in the usual format and the landlord refused to accept it. On November 02, 2013, the landlord served the tenant with a ten day notice to end tenancy for non payment of rent. Eventually the landlord cashed the cheque on November 16, 2013. Again on December 01, 2013, the society paid rent by way of a cheque drawn on the society's bank account. The landlord refused the payment and served the tenant with a notice to end tenancy on December 02, 2013.

Even though the tenancy is slated to end on December 31, 2013, the landlord has requested an order of possession for an earlier date, pursuant to the notices to end tenancy for nonpayment of rent.

Analysis

Based on the sworn testimony of both parties, I find that the landlord acted in an unreasonable manner by changing the mode of payment of rent for no reason. The landlord agreed that the rent was always paid on time and the cheques were always honored. Therefore I find that the landlord had no reason to change his policy regarding payment of rent after more than ten years of tenancy. In this case, I find that rent was not paid because the landlord refused to accept rent and therefore I set aside the notice to end tenancy

Conclusion

The notices to end tenancy dated November 02 and December 02, 2013 are set aside and are of no force or effect.

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 18, 2013

Residential Tenancy Branch

