



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

Landlord's Application: OPC, MND, MNR, MNSD, MNDC, FF

Tenant's Application: CNL, MNDC, MNSD, FF

Introduction

This hearing was scheduled to deal with cross applications. The landlord applied for an Order of Possession for cause and monetary compensation. The tenants filed to dispute a 2 Month Notice to End Tenancy for Landlord's Use of Property and return of the security deposit and pet damage deposit. 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

I heard that the female tenant was served with two copies of the landlord's Application for Dispute Resolution, including one copy intended for the male tenant. The male tenant was not in attendance at the hearing. I heard that the female tenant and the male tenant are spouses. Although the male tenant was not served with the landlord's Application for Dispute Resolution and evidence in a manner that complies with the Act, the female tenant and the tenant's representative confirmed that the male tenant is aware of the matters under dispute and they were representing him in his absence. I deemed the male tenant to be sufficiently served with the landlord's Application for Dispute Resolution.

I noted that the landlord's application included a large monetary claim; however, the landlord did not provide a breakdown, listing, or Monetary Order Worksheet to indicate how the amount requested was determined. The landlord also indicated he wished to amend the monetary claim during the hearing.

The Act requires that an applicant provide sufficient particulars with their Application for Dispute Resolution so that the respondent can understand and respond to the matter(s) under dispute.

I found the landlord failed to provide sufficient particulars with respect to the monetary claim filed against the tenants. I did not permit the landlord to amend the monetary claim during the hearing as I found to do so would be prejudicial to the tenants in this case. Therefore, I dismissed the landlord's monetary claim with leave to reapply.

The tenants had requested cancellation of a 2 Month Notice to End Tenancy for Landlord's Use of Property although a copy of a such a Notice was not included in the documentation submitted by either party. Rather, I was provided evidence by both parties that a 1 Month Notice to End Tenancy for Cause was served upon the tenants. Both parties confirmed that a 2 Month Notice had not been served upon the tenants. Therefore, I considered the request to cancel a 2 Month Notice to be moot and I did not consider this request further.

I also determined that the tenants are still residing in the rental unit and, as such, I found their request for return of the security deposit and pet damage deposit to be premature. I dismissed this portion of their Application for Dispute Resolution with leave to reapply.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession based upon a 1 Month Notice to End Tenancy for Cause?

Background and Evidence

The tenants received a 1 Month Notice to End Tenancy for Cause on March 20, 2014 with a stated effective date of May 1, 2014 (the Notice). The tenants did not file to dispute the Notice within 10 days of receiving the Notice. The tenant testified that they will be vacating the rental unit on April 30, 2014 and the tenants did not object to the landlord receiving an Order of Possession effective May 1, 2014 as indicated on the Notice.

Analysis

Under section 47 of the Act, a tenant has 10 days to file an application to dispute a 1 Month Notice to End Tenancy. If a tenant does not file to dispute such a Notice, the tenant is conclusively presumed to have accepted that the tenancy will come to an end on the effective date of the Notice.

Section 55 of the Act provides that a landlord shall be granted an Order of Possession where a Notice to End Tenancy has been served upon a tenant and the tenant has not filed to dispute the Notice within the time limit for doing so.

Since the tenants were served with a 1 Month Notice to End Tenancy for Cause in the approved form and they did not file to dispute the Notice within the time limit for doing so, I find the landlord entitled to an Order of Possession as requested. With this decision I provide the landlord with an Order of Possession effective at 1:00 p.m. on May 1, 2014.

Given the limited success of both parties with their respective applications, I make no award for recovery of the filing fee paid by either party.

Conclusion

The landlord has been provided an Order of Possession effective at 1:00 p.m. on May 1, 2014.

The monetary claims filed by both parties have 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: April 29, 2014

Residential Tenancy Branch

