



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, CNL

Introduction

This matter dealt with an application by the Tenants to cancel a 1 Month Notice to End Tenancy for Cause and a 2 Month Notice to End Tenancy for Landlord's Use of the Property.

The Tenants said they served the Landlord with the Application and Notice of Hearing (the "hearing package") by registered mail on March 2014. Based on the evidence of the Tenants, I find that the Landlord was served with the Tenants' hearing package as required by s. 89 of the Act and the hearing proceeded with both parties in attendance.

Issues(s) to be Decided

1. Are the Tenants entitled to an order to cancel the two Notices to End Tenancy?

Background and Evidence

This tenancy started on March 1, 2013 as a month to month tenancy. Rent is \$700.00 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$350.00 in advance of the tenancy.

The Landlord said he served the Tenants with a 1 Month Notice to End Tenancy for Cause dated March 11, 2014 and a 2 Month Notice to End Tenancy for the Landlord's Use of the Property dated March 14, 2014. Further the Landlord said and submitted written evidence that he gave the Tenants a letter dated April 3, 2014 withdrawing the two Notices. The Landlord wrote that the Notice to End Tenancy is withdrawn due to the Tenants willingness to be more agreeable and less antagonistic towards each other

and the Landlord agreed to hold off on renovations. The Tenants application is to dispute these two Notices to End Tenancy.

Further the Landlord said that he issued a 1 Month Notice to End Tenancy for Cause dated April 15, 2014. The reasons on the Notice are that the Tenants have significantly interfered with or unreasonable disturbed another tenant or the landlord and the Tenants have adversely affected the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord. The Arbitrator said the Tenants have not filed an application or amended their existing application to dispute this Notice to End Tenancy there for it cannot be included in this hearing.

The Tenants said they understood the Landlord withdrew the first Notices to End the Tenancy, but they were a little confused after getting the Notice to End Tenancy on April 15, 2014. The Tenant said they are moving out of the rental unit at the end of May, 2014 anyways so they are not that concerned.

The Landlord said if the Tenants are moving out at the end of May, 2014 that is what they want.

The Tenant said they would be moving out at the end of May, 2014.

Analysis

As the 2 Notices to End Tenancy issued in March, 2014 have been withdrawn therefore the Landlord has re-instated the tenancy and there is no need to cancel the 1 Month Notice to End Tenancy dated March 11, 2014 or the 2 Month Notice to End Tenancy for the Landlord's Use of the Property dated March 14, 2014. I find the 2 Notices to End Tenancy dated March 11, 2014 and March 14, 2014 have been withdrawn so there is no need to make a ruling on these Notices.

With respect to the 1 Month Notice to End Tenancy for Cause dated April 15, 2014 the Tenants have not amended their application within the timelines or made an application to dispute this Notice to End Tenancy; therefore I cannot make a ruling on it. The 1 Month Notice to End Tenancy for Cause dated April 15, 2014 states on page 2 of the Notice that the Tenants have 10 days to dispute the Notice to End Tenancy and if they do not then the Tenants are presumed to have accepted the Notice and must move out of the rental unit by the date set out on the Notice, which in this case is May 30, 2014.

The Tenants would have had to have filed an application or amend their existing application to dispute this Notice by April 25, 2014. The Tenants did not do either of these things therefore they are presumed to have accepted the 1 Month Notice to End Tenancy for Cause dated April 15, 2014.

The Landlord is at liberty to make an application for an Order of Possession, but as this Notice to End Tenancy is not part of this hearing I am unable to make any rulings on the Notice to End Tenancy dated April 15, 2014.

Conclusion

The Tenant's application to cancel the Notices to End Tenancy dated March 11, 2014 and March 14, 2014 is dismissed without leave to reapply as both the Notices to End Tenancy that they are disputing were withdrawn by the Landlord on April 3, 2014.

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: May 07, 2014

Residential Tenancy Branch

