



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution (the “Application”) made by the Tenant to cancel a 1 Month Notice to End Tenancy for Cause (the “Notice”).

The Landlord appeared for the hearing with his daughter who acted as his agent and his translator during the hearing. The Tenant also appeared for the hearing. Both parties provided affirmed testimony and written evidence for the hearing.

No issues were raised in relation to the service of the documents for this hearing and the written evidence submitted by the parties under the *Residential Tenancy Act* (the “Act”) and the Rules of Procedure.

At the start of the hearing, I confirmed that the Tenant had disputed the Notice within the time limits stipulated by Section 47(4) of the Act.

The Landlord’s daughter presented oral evidence in relation to the reasons why the Notice had been served to the Tenant. The Tenant denied the allegations and during his testimony he stated that he was going to be leaving the rental suite by the end of the month. As a result, I asked the parties whether they were willing to end the tenancy through a settlement agreement and both parties were agreeable to this course of action as the best resolution to this tenancy.

Analysis & Conclusion

Pursuant to Section 63 of the Act, the arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order.

The Landlord and Tenant both agreed to end the tenancy on **September 1, 2014** at which point the Tenant is required to vacate the rental suite. The Landlord is issued with an Order of Possession effective for this date.

Both parties were cautioned in relation to their rights and obligations relating to the return of the security deposit at the end of the tenancy. Section 38(1) of the Act explains that a Landlord must make an Application to keep the Tenant's security deposit or return the full amount to the Tenant within **15 days** after the latter of the date the tenancy ends, and the date the Landlord receives the Tenant's forwarding address.

The Tenant must be able to prove that the Landlord has been provided with a forwarding address in writing and this has been served to the Landlord using the service requirements as laid out in Section 88 of the Act.

The Landlord is cautioned to the doubling provisions of Section 38(1) of the Act and if the Landlord had extinguished their right to make a claim from the security deposit they must return this back to the Tenant within the 15 days time limit. However if the Landlord has extinguished their right to retain the security deposit and returns to the deposit to the Tenant, the Landlord is still at liberty to make an Application against the Tenant for any losses incurred.

Conclusion

For the reasons set out above, I grant the Landlord an Order of Possession effective **at 1:00 pm on September 1, 2014**. This order may be filed and enforced in the Supreme Court as an order of that court if the Tenant fails to vacate the rental unit in accordance with the above agreement.

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: August 22, 2014

Residential Tenancy Branch

