



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, FF, O, OLC

Introduction

This is an application for an order to cancel the Notice to End Tenancy, a request for an order for the landlord to comply with the Act, and a request for recovery of the filing fee paid for today's hearing.

Some documentary evidence and written arguments has been submitted by the parties prior to the hearing.

I have given the parties the opportunity to present all relevant evidence, and to give oral testimony, and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

Issue(s) to be Decided

At the beginning of the conference call the applicant/tenant stated that the only issue she wishes to deal with today is the request to cancel the Notice to End Tenancy, and she is withdrawing the other portions of her application.

The issue I dealt with today therefore is whether to cancel or uphold a one month Notice to End Tenancy that was given for repeated late payment of rent.

Background and Evidence

This tenancy began on March 15, 2014 with a monthly rent of \$950.00.

Both the landlord and tenant agree that the rent was paid late in the month of July 2014, having been paid on July 14, 2014 in the month of August 2014, having been paid on

August 6, 2014, and in the month of October 2014 having been paid on October 5, 2014.

On October 13, 2014 landlord personally served the tenant with a one-month Notice to End Tenancy for repeated late rent payments that would end the tenancy on November 30, 2014.

Rent has subsequently been paid in full for December 2014 and was accepted by the landlord as rent.

Analysis

Section 47(b) of the Residential Tenancy Act states:

47 (1) A landlord may end a tenancy by giving notice to end the tenancy if one or more of the following applies:

(b) the tenant is repeatedly late paying rent;

Residential Tenancy Policy Guideline number 38 states:

The *Residential Tenancy Act*¹ and the *Manufactured Home Park Tenancy Act*² both provide that a landlord may end a tenancy where the tenant is repeatedly late paying rent.

Three late payments are the minimum number sufficient to justify a notice under these provisions.

It does not matter whether the late payments were consecutive or whether one or more rent payments have been made on time between the late payments.

However, if the late payments are far apart an arbitrator may determine that, in the circumstances, the tenant cannot be said to be “repeatedly” late

In this case it cannot be said that the late payments were far apart, and in fact two of the late payments were consecutive, and the third only had one month in between.

Therefore the landlord did have the right to end this tenancy for repeated late rent payments, and I will not be canceling the Notice to End Tenancy that ended the tenancy on November 30, 2014.

Conclusion

This application to cancel a one month Notice to End Tenancy is dismissed.

That being said, the landlord, by accepting rent for the month of December 2014, has reinstated the tenancy.

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 02, 2014

Residential Tenancy Branch

