



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNC OPC FF

Introduction

This hearing dealt with an application by the tenant pursuant to the *Residential Tenancy Act* (the Act) for orders as follows:

- a) To cancel a notice to end tenancy for cause pursuant to section 47;
- b) To refund the tenant for half a month's overpayment of rent as she moved in halfway through the month;

Service:

The Notice to End Tenancy is dated October 24, 2014 to be effective October 24, 2014. The effective date on the Notice is automatically corrected to November 30, 2014 pursuant to section 53 of the *Residential Tenancy Act* as a one month Notice to End Tenancy for cause must give a full month's notice and end the tenancy on the day before the day in the month that rent is payable under the tenancy agreement according to section 45 (1) (b). The tenant /applicant gave evidence that she served the Application for Dispute Resolution and the landlord agreed they received it. I find the documents were legally served for the purposes of this hearing.

Issue(s) to be Decided:

Has the landlord proved on the balance of probabilities that there is sufficient cause to end the tenancy or is the tenant entitled to any relief? Has the tenant proved on the balance of probabilities that she is entitled to a refund of half of one month's rent?

Is the landlord entitled to an Order of Possession if the tenant is unsuccessful in the application?

Background and Evidence

Both parties attended the hearing and were given opportunity to be heard, to provide evidence and to make submissions. The undisputed evidence is that the tenancy commenced in September, 2014, rent is \$800 a month and a security deposit of \$400 was paid in September 2014. The landlord served a Notice to End Tenancy for the following reasons:

- a) The tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord; and has adversely affected the quiet enjoyment, security, safety or physical wellbeing of another occupant or the landlord; and
- b) The tenant has put the landlord's property at significant risk.

Both parties submitted considerable evidence of communications between them. Both parties have health issues and claim the tenancy has caused them significant stress and they would prefer to end the tenancy. After discussion with witnesses and advisors, the parties agreed to settle on the following terms and conditions:

Settlement Agreement:

1. **The tenant will vacate on December 31, 2014 and the landlord will obtain an Order of Possession effective December 31, 2014.**
2. **The tenant will be given a refund of \$400 for which she will receive a monetary order to be paid on December 31, 2014 when she vacates.**
3. **The tenant's security deposit of \$400 will remain in trust to be dealt with in accordance with section 38 of the Act after the tenant vacates.**

On the basis of the documentary and solemnly sworn evidence presented for the hearing, a decision has been reached.

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Analysis:

Pursuant to the above noted settlement agreement, I find the landlord entitled to an Order of Possession effective December 31, 2014. I find the tenant entitled to a Monetary Order for \$400 to be paid by the landlord when the tenant vacates.

Conclusion:

The tenancy is at an end on November 30, 2014 (as corrected). An Order of Possession is issued to the landlord effective December 31, 2014. A monetary order for \$400 is issued to the tenant to be paid when she vacates. The security deposit remains in trust for the tenant to be dealt with according to section 38 of the Act after the tenant vacates and provides a forwarding address in writing.

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 09, 2014

Residential Tenancy Branch

