



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding LINCOLN MANOR LTD.
and [tenant name suppressed to protect privacy]

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; and
- b) To recover the filing fee for this application.

Service:

The tenant/applicant did not attend the conference. The landlord gave sworn evidence that the Notice to End Tenancy dated November 27, 2014 to be effective December 31, 2014 was one of many such Notices and was served by posting it on the tenant's door. The landlord gave evidence that they were served the Application for Dispute Resolution by registered mail. 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? Is the landlord entitled to an Order of Possession if the tenant is unsuccessful in the application?

Background and Evidence

The tenant/applicant did not attend the hearing; after waiting 10 minutes, the conference proceeded in his absence. The landlord's agent attended the hearing and was given opportunity to be heard, to provide evidence and to make submissions. He requested the Decision and Order show that he was the manager and not the landlord and the amendment was made. The undisputed evidence is that the tenancy commenced in December 2013, rent is \$650 a month and a security deposit of \$325 was paid. The landlord served a Notice to End Tenancy for the following reasons:

1. The tenant has engaged in illegal activity that has or is likely to:
 - a) damage the landlord's property

- b) adversely affect the quiet enjoyment, security, safety or physical wellbeing of another occupant or the landlord.
- 2. The tenant has caused extraordinary damage to the unit.

The landlord provided a number of other Notices served to the tenant for similar causes; he said there was a prior hearing which the tenant did not attend but the landlord did not request an Order of Possession then for they decided to give the tenant another chance. However, he has continued to cause problems. He forgot his key and pulled the fire alarm so he could gain access to the building; this resulted in residents being out in the cold for 30 minutes while fire persons responded. The landlord provided several letters in evidence from other tenants complaining about loud music, fighting and threats which disturbed their peaceful enjoyment. One tenant vacated already because of this tenant's behaviour. The landlord requests an Order of Possession if the tenant is unsuccessful in this hearing.

Included with the evidence are copies of many Notices to End Tenancy, letters from other tenants, records of Police involvement and report of an assault charge. The tenant said in his Application that the Notice should be set aside as it was the result of a personal dispute between him and one neighbour.

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

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Analysis:

The onus is on the landlord to prove on a balance of probabilities that they have good cause to evict the tenant.

I find the evidence of the landlord credible and I prefer it to the evidence of the tenant in respect to the causes cited, namely, that he has damaged the landlord's property and adversely affected the quiet enjoyment, security, safety or physical wellbeing of another occupant or the landlord. I find the landlord's evidence most credible as it is supported by the letters from neighbours and the reported incidence of the fire alarm being triggered by this tenant so he could gain access because he had forgotten his key. The weight of the evidence indicates that the tenant's behaviour and interaction with others goes well beyond a personal dispute with one neighbour.

For the above reasons, I dismiss the application of the tenant to cancel the Notice to End Tenancy. I find the tenancy terminated on December 31, 2014.

Conclusion:

The Application of the Tenant to set aside the Notice to End Tenancy is dismissed. The tenancy is at an end. Pursuant to the request from the landlord in the hearing and under section 55 of the Act, an Order of Possession is issued to the landlord effective two days from service.

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: January 06, 2015

Residential Tenancy Branch

