



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, MNDC, FF, MOT

Introduction

The tenant applies to cancel a one month Notice to End Tenancy for cause dated February 10, 2015 and received by the tenant the same day. The tenant also seeks compensation for lost time at work and out of pocket expenses incurred in having to deal with the Notice and his efforts to challenge it.

At hearing the landlord attempted to advance a claim for reimbursement for water bills. The tenant consented to that issue being determined at this hearing.

It was apparent that the tenant had filed his application to challenge the Notice past the ten day time limit imposed by s. 48(5) of the *Residential Tenancy Act* (the "*Act*"). The tenant was permitted to amend his application to include a request for more time to apply.

Issue(s) to be Decided

Does the relevant evidence presented at hearing show on a balance of probabilities that the circumstances warrant an extension of time for the tenant to apply to challenge the one month Notice? Does it show the tenant or the landlord is entitled to monetary relief?

Background and Evidence

The rental unit is a three bedroom house. The tenancy started in May 2014 for a fixed term to April 30, 2015 and then month to month. The monthly rent is \$1200.00 due on the first of each month. The landlord holds a \$600.00 security deposit.

The tenant failed to apply to cancel the Notice because he was unaware of his right to do so. Then at the end of February 2015 he was served with a ten day Notice to End Tenancy (not in issue here) and contacted the Residential Tenancy Branch. Upon being informed of his rights he then brought this application on March 3rd and paid a filing fee the same day.

Though the application was considered to have been “made” on March 3rd, according to the Rule 2.6 of the Rules of Procedure, the hearing package containing the application and hearing letter were not served on the landlord until well past the three day mandatory limit imposed by s. 59(3) of the *Act*. The landlord did not take issue with this aspect and so I make no further comment about it.

The landlord says she would be prejudiced by an extension of time for the tenant’s application to challenge the one month Notice. She says that in late February she contacted the Residential Tenancy Branch for the specific purpose of determining whether the tenant had filed an application to cancel the Notice. On learning that he had not, she made specific arrangements with her insurers based on the tenant vacating. She will be put to trouble and expense if she has to change her policy again.

In regard to the tenant’s claim for a monetary award, he says that he has taken time off work to make his claim, totalling about seven hours at \$18.00 per hour. He also seeks his filing fee and \$5.50 for copying expenses.

The landlord claims, and it appears to be conceded by the tenant that he was responsible for 25% of the water bills for the premises during his tenancy. The tenant’s share of outstanding bills as of the date of hearing is \$406.02. The tenant was in the habit of paying \$50.00 per month toward the bills and has paid \$250.00 so far leaving \$156.02 owing.

The tenant responds that he performed a variety of tasks and “favours” for the landlord, had made some improvements to the premises and that those things should be taken into consideration. The landlord replies she had not asked him to perform any of the tasks or make any improvements.

Analysis

Dealing firstly with the extension of time, the tenant’s reason for failing to comply with the ten day time limit is important, but overriding is the question of whether or not the landlord would be prejudiced by an extension of time for the tenant’s application.

Normally, the fact that a person did not take the opportunity to assess or determine his rights is not an excuse. This is especially so when the mandatory form; the one month Notice to End Tenancy, clearly sets out the tenant's rights and obligations.

However, I determine that to grant an extension of time would be prejudicial to the landlord given her reliance on the lack of a challenge to the Notice in making her insurance arrangements. For that reason I decline to grant the tenant an extension of time to challenge the Notice.

I therefore declare the Notice to End Tenancy dated February 10, 2015 to be a valid Notice that has caused this tenancy to end March 31, 2015. The landlord is entitled to an order of possession. The tenant has paid April rent money and so I grant the landlord an order of possession effective April 30, 2015.

Regarding the tenant's claim for a monetary award, a party to a dispute resolution, whether under the *Residential Tenancy Act* or in the courts, is not entitled to claim for working time lost in attending to the dispute resolution matters. Additionally, my power to award costs and disbursements of a dispute resolution proceeding to a party appears to be limited to awarding all or part of the filing fee. I have no power to award a party recovery of out of pocket expenses such as copying charges. For these reasons I dismiss the tenant's monetary claim.

Regarding the landlord's claim for water charges, I accept her evidence and find that the tenant owes her the remaining balance of \$156.02 for outstanding water bills. I find that the tenant is not entitled to set off the value of the tasks done, improvements made or favours granted as they were not things done on the basis that the landlord would have to pay for them.

I authorize the landlord to retain the amount of \$156.02 from the security deposit she holds in full satisfaction of the tenant's share of water bills received to date.

Conclusion

The tenant's application, as amended, is dismissed

This decision was rendered orally and 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: April 09, 2015

