



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

CNR, CC, MNDC

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant filed under the Residential Tenancy Act (the "Act"), to cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, to cancel a 1 Month Notice to End Tenancy for Cause, issued on November 17, 2015 and to cancel a 1 Month Notice to End Tenancy for Cause, issued on November 25, 2015.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

The parties confirmed receipt of all evidence submissions and there were no disputes in relation to review of the evidence submissions.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to the relevant facts and issues in this decision.

Preliminary matters

Rule 2.3 of the Residential Tenancy Branch Rules of Procedure authorizes me to dismiss unrelated disputes contained in a single application. In these circumstances the tenant indicated several matters of dispute on the Application for Dispute Resolution, the most urgent of which is the application to set aside the Notices to End Tenancy. I find that not all the claims on this Application for Dispute Resolution are sufficiently related to be determined during these proceedings. I will, therefore, only consider the tenant's request to set aside the Notices to End Tenancy. The balance of the tenant's applications is dismissed, with leave to reapply.

At the outset of the hearing the landlord requested an order of possession, if the tenant is not successful with their application.

At the outset of the hearing the landlord indicated that the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities was issued in error and they contacted the tenant

and apologized for their error. Therefore, I find it appropriate to cancel the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities.

In a case where a tenant has applied to cancel a Notice, Rule 7.18 of the Residential Tenancy Branch Rules of Procedure require the landlord to provide their evidence submission first, as the landlord has the burden of proving cause sufficient to terminate the tenancy for the reasons given on the Notice.

Issues to be Decided

Should the 1 Month Notices to End Tenancy for Cause be cancelled?

Background and Evidence

The tenancy began on July 1, 2013. Rent in the amount of \$1,000.00 was payable on the first of each month. The tenant paid a security deposit of \$500.00.

The parties agreed that the tenant was served with a 1 Month Notice to End Tenancy for Cause, issued on November 25th 2015.

The reason stated in the Notice was that the tenant has:

- Breached a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so;
- The tenant has allowed an unreasonable number of occupants in the unit;
- The tenant assigned or sublet the rental unit without landlord's consent.

The landlord testified that the tenant has breached a material term of the tenancy agreement. The landlord stated that in the additional terms in the addendum, especially clause 2, which reads.

“There shall be no storage of unlicensed vehicles, boats, or any other equipment on the residential premises without the express written permission of the landlord. ...”

[Reproduced as written]

The landlord testified that on November 13, 2015, that the tenant was given a written notice that they would be attending the rental unit on November 23, 2015, to confirm that the terms of the tenancy agreement have been met and to conduct a general inspection.

The landlord testified that they attend with a witness and the tenant's girlfriend completed the walk through inspection for the tenant. During the inspection they found a white mercury vehicle that had no license plate or displayed decal. The landlord stated that the tenant's girlfriend was not informed by the tenant that proof of the vehicle

being licensed was required. The landlord stated that the tenant has still not provided any proof that the vehicle is licensed as required by the tenancy agreement.

The tenant testified that they have fire and theft insurance on the vehicle. The tenant confirmed they did not provide a copy of the documents to the landlord by November 23, 2015, nor did they provide a copy in evidence for my review or consideration.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

I have considered all of the written and oral submissions submitted at this hearing, I find that the landlord has provided sufficient evidence to show that the tenant has:

- Breached a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so;

In this case the tenant had been given notice by the landlord that they would be attending the rental unit on November 23, 2015, to confirm the compliance of the tenancy agreement, which was no unlicensed vehicle to be stored on the property.

When the landlords attended a vehicle was found with no vehicle plates and no documentation was provided to the landlord to show compliance with the tenancy agreement. On November 25, 2015, the landlord issued the 1 Month Notice to End Tenancy for Cause.

Although the tenant indicates they have fire and theft insurance, they did not provide a copy to the landlord at any time after the request was made, nor did the tenant supply any proof of compliance in their evidence for my review or consideration, which would have been reasonable under the circumstance.

I find the tenant has failed show they comply with a material term of the tenancy after written notice to do. I find the 1 Month Notice to End Tenancy for Cause, issued on November 25, 2015, has been proven by the landlord and is valid and enforceable.

Therefore, I find the tenancy legally ends on the date specified in the 1 Month Notice to End Tenancy for Cause, issued on November 25, 2015, which is January 1, 2016.

Although both parties gave evidence in relations to the 1 Month Notice to End Tenancy for Cause, issued on November 17, 2015, I find it not necessary to for me to consider that evidence as I have found the tenancy legally ends based on the 1 Month Notice to End Tenancy for Cause, issued on November 25, 2015.

As the tenant's application is dismissed and the landlord requested an order of possession at the hearing, pursuant to section 55 of the Act, I must grant this request.

Section 55(1) of the Act states:

Order of possession for the landlord

- 55 (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant an order of possession of the rental unit to the landlord if, at the time scheduled for the hearing,
- (a) the landlord makes an oral request for an order of possession, and
 - (b) the director dismisses the tenant's application or upholds the landlord's notice.

As I have dismissed the tenant's application, I find that the landlord is entitled to an order of possession effective **January 1, 2016, at 1:00 P.M.**

This order must be served on the tenant and may be filed in the Supreme Court. The **tenant is cautioned** that costs of such enforcement are recoverable from the tenant

Conclusion

The tenant's application to cancel the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities is granted.

The tenant's application to cancel the 1 Month Notice to End Tenancy for Cause, issued on November 25, 2015, is dismissed. The tenancy legally ends on January 1, 2016. The landlord is granted an order of possession.

The tenant's application to cancel the 1 Month Notice to End Tenancy for Cause, issued on November 17, 2015, is not necessary to consider, as I have order the tenancy legally ends based on the 1 Month Notice to End Tenancy for Cause, issued on November 25, 2015.

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 16, 2015

