



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding AFFORDABLE HOUSING NON PROFIT RENTAL ASSOCIATION
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

This hearing was set to deal with a tenant's application to cancel a 1 Month Notice to End Tenancy for Cause. Both parties appeared or were represented at the hearing and were provided the opportunity to make relevant submissions, in writing and orally pursuant to the Rules of Procedure, and to respond to the submissions of the other party.

The landlord had submitted evidence to the Residential Tenancy Branch in support of ending the tenancy. The landlord testified that the same package was sent to the tenant via registered mail on December 22, 2015 but that it was not picked up by the tenant. The tenant continues to reside in the rental unit. The landlord orally provided the registered mail tracking number as proof of service. A search of the tracking number showed that Canada Post left notice cards on December 23, 2015 and December 29, 2015 and that the registered mail remains unclaimed. The tenant stated that he may have received the notice cards in his mail and that they may be mixed in with flyers he received. Section 90 of the Act deems a person to have received documents five days after mailing even if the person neglects or refuses to pick up their mail. I was satisfied that the landlord met its obligation to serve the tenant with its evidence and that the tenant failed to exercise due diligence in checking his mail or picking up his mail especially considering he had put the landlord on notice that he was disputing the Notice to End Tenancy. I also heard that the tenant had only engaged the services of the Advocate in the few days preceding this hearing despite filing his application in mid-November 2015. Nevertheless, in recognition that the tenant, or his Advocate, had not seen the landlord's evidence, I informed the parties that the landlord's evidence would be described orally during the hearing so that the tenant and his Advocate would be permitted the opportunity to hear the evidence and respond to it.

After the landlord presented its evidence in support of ending the tenancy, the tenant proposed a mutual agreement to end tenancy in resolution of this dispute. The parties

were able to reach a mutual agreement during the hearing and I have recorded the terms by way of this decision and the Order that accompanies it.

Issue(s) to be Decided

What are the terms of the mutual agreement?

Background and Evidence

During the hearing, the parties mutually agreed upon the following terms in resolution of their dispute:

1. The tenancy shall end on February 29, 2016 at which time the tenant will return vacant possession of the rental unit to the landlord.
2. During the remainder of the tenancy the tenant retains the right to have guests and occupants in his rental unit but is not to use the rental unit to accommodate people he is assisting by way of his outreach activities.
3. During the remainder of the tenancy the tenant shall be cognizant and aware of his actions, and those of persons he permits on the property, so as to avoid causing damage the rental unit, other rental units in the building, or any other areas of the building or property where the rental unit is located.

Analysis

Pursuant to section 63 of the Act, I have the authority to assist parties in reaching a settlement agreement during the hearing and to record the terms of the agreement in the form of a decision or order. I have accepted and recorded the mutual agreement reached by the parties during this hearing and make the terms an Order to be binding upon the parties.

In recognition of the mutual agreement, I provide the landlord with an Order of Possession effective at 1:00 p.m. on February 29, 2016 to serve and enforce as necessary.

Given the significant and costly damage that has already occurred during this tenancy to the rental unit and surrounding areas of the building, the parties are informed that should the property be damaged again, or if there is a significant risk of further damage, as a result of the tenant's actions or neglect, or that of persons the tenant permits on the property, the landlord retains the right to make an Application for Dispute Resolution to

seek an order to end the tenancy earlier than February 28, 2016 under section 56 of the Act.

Conclusion

The parties reached a mutual agreement during the hearing that I have recorded by way of this decision and the Order of Possession that accompanies it. The landlord has been provided an Order of Possession that is effective at 1:00 p.m. on February 29, 2016 to serve and enforce as necessary.

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 13, 2016

Residential Tenancy Branch

