



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MT, CNC, MNSD, RR, OPC, MND, FF

Introduction

This was a cross-application hearing.

On November 17, 2015 the tenant submitted an application requesting more time to cancel a 1 month Notice ending tenancy for cause that was issued on November 10, 2015. The tenant applied requesting compensation for damage or loss under the Act and an Order allowing the tenant to reduce rent for repairs and services agreed upon but not provided.

On December 24, 2015 the landlord applied requesting an Order of possession and a monetary order for damage to the rental unit plus filing fee costs.

Both parties were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained, evidence was reviewed and the parties were provided with an opportunity to ask questions about the hearing process. They were provided with the opportunity to submit documentary evidence prior to this hearing, all of which has been reviewed with the exception on a late submission made by the tenant on January 17, 2016. The parties presented affirmed oral testimony and made submissions during the hearing.

Preliminary Matters

The parties each indicated several matters of dispute on their applications. I determined that the main issue was that of the dispute related to the Notice to end tenancy. For disputes to be combined on an application they must be related, as set out in section 2.3 of the Residential Tenancy Branch Rules of Procedure. Not all the claims on this application were sufficiently related to the main issue to be dealt with together. Therefore, I dealt with the Notice to end tenancy and the balance of each claim was dismissed with leave to reapply.

Mutually Settled Agreement

After hearing testimony from each party on the nature of the tenancy and the issues related to the 1 month Notice to end tenancy for cause issued on November 10, 2015, the parties were able to reach a mutually settled agreement.

The parties agreed that the tenancy will end no later than March 31, 2016. The tenant agreed that she would give the landlord vacant possession by March 31, 2016.

Section 63 of the Act provides:

Opportunity to settle dispute

63 (1) *The director may assist the parties, or offer the parties an opportunity, to settle their dispute.*

(2) *If the parties settle their dispute during dispute resolution proceedings, the director may record the settlement in the form of a decision or an order.*

Therefore, in support of the mutual agreement I find and Order that this tenancy will end effective 1:00 p.m. on March 31, 2016. I have issued the landlord an Order of possession for that date and time. The Order may be served on the tenant should she fail to vacate the rental unit as agreed and Ordered.

The parties each expressed the desire to have the other reminded of their rights and obligations under the Act. I explained that in this case the landlord has the full right to use her porch, at any time and in any manner she chooses. The tenant was reminded that the landlord does have the right to quiet enjoyment and that the landlord was attempting to exercise that right through the only means available to a landlord; eviction.

The tenant understands she is not to enter onto the porch at any time unless an emergency exit from her suite is required. I strongly suggest that the tenant leave the door to the kitchen, which opens to the porch, closed.

The parties were encouraged to treat each other with respect and to make efforts to avoid conflict during these last few months of the tenancy.

I explained that if the tenant locates a new rental unit prior to March 31, 2016 she may approach the landlord with a request for a mutual agreement to end the tenancy on an earlier date. The parties were informed that any mutual agreement must be signed and dated by the tenant and landlord.

Conclusion

The parties have reached a mutually settled agreement ending the tenancy effective 1:00 p.m. on March 31, 2016. An Order of possession has been issued to the landlord for that date.

The balance of each application is dismissed with leave to reapply.

This decision and mutually settled agreement 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 18, 2016

Residential Tenancy Branch

