



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

On May 24, 2016, the Tenant submitted an Application for Dispute Resolution asking that a 1 Month Notice to End Tenancy for Cause (“the Notice”) dated May 12, 2016, be cancelled.

Both parties appeared at the hearing. The hearing process was explained and the participants were asked if they had any questions. Both parties provided affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue to be Decided

Has the Tenant breached the *Residential Tenancy Act* (the Act) or the tenancy agreement by repeatedly paying rent late?

Background and Evidence

The parties testified that the tenancy began in January 2011, as a month to month tenancy. Current rent in the amount of \$471.00 is payable on the first of each month. The Tenant paid the Landlord a security deposit in the amount of \$263.00.

The Landlord testified that the Tenant was late paying the rent for the months of September 2015, October 2015, November 2015, December 2015, January 2016, March 2016, May 2016, and June 2016.

The Landlord has submitted documentary evidence providing the dates the rent was received:

Month	Reason	Date Paid
September 2015	Non-sufficient funds on September 8, 2015	Rent paid on Oct 7, 2015
October 2015	Non-sufficient funds on October 4, 2015	Rent paid on Nov 10, 2015
November 2015	Non-sufficient funds on November 6, 2015	Rent paid on Nov 25, 2015
January 2016		Received cheque on Jan 6, 2016
March 2016		Received cheque on Mar 4, 2016
May 2016	Stop payment	Paid on May 27, 2016
June 2016		No rent received

The Landlord provided documentary evidence in the form of bank records showing the dates of the non-sufficient fund transactions.

The Landlord testified that the Tenant was served with the Notice for repeated late payment of rent on May 12, 2016.

Section 47 of the *Act* states that a Landlord may end a tenancy by giving a Notice to end the tenancy if a Tenant is repeatedly late paying rent.

The Landlord stated that he holds no personal animosity towards the Tenant, and that the Notice was issued because the repeated late payments create too much extra work for the Landlord.

The Tenant submits that the Landlord has prejudice against him because he assists other residents as an advocate during tenancy disputes. The Tenant submits that the Landlord is trying to obtain units in the building by any means possible for the purpose of securing higher market value rents.

The Tenant submits that other than a few late payments in the fall of 2015, and the one that instigated the eviction notice, he is a regular paying Tenant. The Tenant submits that even though the few late payments were discussed with the Landlord, and the Landlord accepted the explanations, he was actually holding it against the Tenant for use at a later date.

The Tenant acknowledges that the rent payment in October was late and he has provided explanations for why the other rent payments were late. The Tenant testified that he discussed his financial shortfall with the Landlord and believed the Landlord understood his issues.

The Tenant testified that on January 15, 2016, he put a stop payment on a rent cheque held by the Landlord for May 2016. The Tenant states that he forgot that he did this and it was an honest mistake. He testified that he would have immediately gone to the bank for a money order to pay the rent had he remembered or had the Landlord told him sooner.

The Tenant testified that he has not paid his rent for the month of June 2016. The Tenant stated that he is withholding the rent because he may need the money to find a new place to live.

The Residential Tenancy policy guideline 38 with respect to repeated late payment of rent sets out that three late payments are the minimum number sufficient to justify a notice to end tenancy.

Analysis

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

I find that the Tenant was repeatedly late paying rent seven times in the past ten months. I have considered the Tenant's explanations regarding his mistake and how his medical issues affected his ability to pay rent; however I am not satisfied that those reasons prevented him from paying, or arranging to pay his rent on time.

The Landlord issued the Notice because the Tenant is repeatedly late paying rent. The Landlord has provided sufficient evidence to support the reason in the Notice. I do not accept the Tenant's evidence that the Landlord has evicted him out of prejudice or for the purpose of renting the unit at a higher market value rent.

I dismiss the Tenant's Application to cancel the 1 Month Notice To End Tenancy For Cause dated May 12, 2016.

Under section 55 of the Act, when a Tenant's application to cancel a Notice to end tenancy is dismissed and I am satisfied that the Notice to end tenancy complies with the

requirements under section 52 regarding form and content, I must grant the Landlord an order of possession.

I am satisfied that the Notice complies with the requirements under section 52 of the Act. I find that the Landlord is entitled to an order of possession effective June 30, 2016, after service on the Tenant. This order may be filed in the Supreme Court and enforced as an order of that Court.

Conclusion

The tenant was repeatedly late paying rent. The Tenant's application to cancel the Notice is dismissed.

I grant the Landlord an order of possession effective June 30, 2016. The Tenant must be served with the order of possession. Should the Tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

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: June 24, 2016

Residential Tenancy Branch