



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNC, CNL, MNDC, OLC, LRE, O

This proceeding was held over two hearing dates and dealt with the tenant's application, as amended, to dispute a 1 Month Notice to End Tenancy for Cause; 2 Month Notice to End Tenancy for Landlord's Use of Property; orders for the landlord to comply with the Act, regulations or tenancy agreement; to suspend or set conditions on the landlord's right to enter the rental unit; and, monetary compensation for damage or loss under the Act, regulations or tenancy agreement.

Both parties appeared or were represented at both hearing dates 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.

An interim decision was issued on April 27, 2016 and should be read in conjunction with this decision. At the reconvened hearing, I confirmed that both parties had served each other with additional evidence as authorized and ordered by way of the interim decision.

At the reconvened hearing, the parties reached an agreement with respect to ending of the tenancy. I have recorded that agreement by way of this decision and the Order that accompanies it.

As to the outstanding issue concerning the tenant's request to have storage in the laundry room, the tenant stated that she has removed her possessions from the laundry room and is prepared to leave it as is during the remainder of the tenancy. Accordingly, I considered this request withdrawn.

With respect to the tenant's monetary claim, the tenant appeared apprehensive to proceed at this time. The tenant also acknowledged that she did not provide a detailed breakdown as to how she calculated the amount sought and that the amount claimed was based upon a suggestion of Information Officer. The tenant was informed of her obligation, as the applicant, to provide full and sufficient particulars with her application so that the respondent has an understanding as to the claim(s) being made. The tenant indicated that she understood this concept and indicated that she would like to reserve

the right to reapply in the future. I informed the parties that I was prepared to dismiss the tenant's monetary claim against the landlord with leave to reapply. Neither party object to this and I dismissed the tenant's monetary claim with leave to reapply. It should be noted that there are statutory time limits for filing an Application.

Issue(s) to be determined

What are the terms of the mutual agreement with respect to ending the tenancy?

Background and Evidence

The parties mutually agreed to the following terms during the hearing:

1. The tenant accepts that the tenancy shall end pursuant to the 2 Month Notice to End Tenancy for Landlord's Use dated and served upon her on March 25, 2016.
2. The effective date of the 2 Month Notice is changed, with agreement of both parties, to read July 15, 2016.

Since the tenancy is ending pursuant to a 2 Month Notice, a discussion ensued as to tenant's compensation payable under section 51(1) of the Act. I heard that the tenant has already paid rent that was payable on June 1, 2016. In recognition that the tenancy agreement provides that the tenant is to pay rent on the first day of every month, the tenant has already paid rent for June 2016, and the tenancy is set to end part way through July 2016 the parties were agreeable to the following: the tenant shall pay no rent on July 1, 2016 and on July 15, 2016 the landlord shall pay \$797.50 (one-half the monthly rent) to the tenant.

Since the tenancy is ending pursuant to a 2 Month Notice, the landlord was informed that the landlord remains obligated to fulfill the stated reason for ending the tenancy and failure to do so would entitle the tenant to additional compensation. The landlord stated that he understood this.

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 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 I make the terms an Order to be binding upon both parties.

In recognition of the mutual agreement, I provide the landlord with an Order of Possession that has an effective date of July 15, 2016.

I have not provided the tenant with a Monetary Order for compensation she is entitled to receive under section 51(1) of the Act as to do so would be premature for the following reason. The format for receiving compensation as discussed during the hearing is appropriate provided the tenancy ends on July 15, 2016. However, a tenant in receipt of a 2 Month Notice may end the tenancy earlier than the effective date by providing the landlord with at least 10 days of written notice and the tenant retains that right in this case. In other words, should the tenant wish to end the tenancy before July 15, 2016 she may do so by giving the landlord written notice of such at least 10 days in advance. Should the tenant end the tenancy earlier than July 15, 2016 the tenant's entitlement to receive a refund of rent under section 51(1) will change accordingly. Tenant's compensation under section 51(1) is the equivalent of one month's rent and a tenant realizes this compensation by: occupying the rental unit without paying rent for one month, or receiving a refund of rent already paid if the tenant did not occupy the rental unit for one month without paying rent, or a combination of both, so long as the benefit received by the tenant is equivalent to one month of rent.

As the parties were informed during the hearing, the landlord remains obligated to fulfill the stated reason on the 2 Month Notice for at least six months after the tenancy ends and failure to do so may entitle the tenant to further compensation under section 51(2) of the Act.

Conclusion

The parties reached a mutual agreement with respect to ending the tenancy pursuant to the 2 Month Notice to End Tenancy for Landlord's Use of Property dated March 25, 2016. I have recorded that mutual agreement by way of this decision and in recognition of the mutual agreement the landlord has been provided an Order of Possession that is effective on July 15, 2016.

The tenant remains entitled to tenant's compensation provided to tenants in receipt of a 2 Month Notice under section 51 of the Act and the landlord remains obligated to compensate the tenant accordingly.

The tenant has not been authorized to change the locks to the rental unit and the landlord remains obligated to comply with section 29 of the Act before entering to the rental unit during the remainder of the tenancy.

The remainder of the remedies sought by the tenant have been resolved or withdrawn as reflected in the interim decision and this decision including the tenant's monetary claim which has been dismissed with leave to reapply.

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 1, 2016

Residential Tenancy Branch