



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Remcan Holdings Ltd. #3
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

This is an application brought by the tenant(s) requesting an order canceling a Notice to End Tenancy that was given for cause.

A substantial amount of documentary evidence and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all relevant submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All parties were affirmed.

Issue(s) to be Decided

The issue is whether or not to cancel or uphold a one-month Notice to End Tenancy.

Background and Evidence

This tenancy began on August 1, 2014 and the present monthly rent is \$1100.00.

On July 21, 2016 the landlord personally served the tenant with a one-month Notice to End Tenancy for cause, listing numerous reasons.

The first reason listed on the Notice to End Tenancy was repeated late rent payments, and therefore I dealt with that issue first.

The landlord testified that there have been four occasions on which the tenants rent cheque was NSF as follows:

1. December 2014
2. December 2015
3. July 2016
4. and now September 2016

The landlord further testified there has also been two or three times when the rent has been paid late, and she states that she has provided a text message from the tenant that shows that the January 2015 rent was paid late.

The landlord therefore requests that the tenancy be ended, due to repeated late rent payments, and request an Order of Possession for as soon as possible.

The tenants testified that they don't dispute that the rent has been paid late on occasion; however it happens always been paid in full, usually within two weeks.

The tenants further testified that the September 2016 rent cheque was NSF due to a bank error and was not their fault.

The tenants therefore do not believe it's reasonable to end the tenancy for repeated late rent payments.

Analysis

It is my finding that the landlord has shown that the tenants have been late with the rent on at least four occasions, prior to receiving this one month Notice to End Tenancy, and have subsequently been late on one more occasion since then.

Residential Tenancy Policy Guideline 38 states, in part:

The *Residential Tenancy Act*¹ provides that a landlord may end a tenancy where the tenant is repeatedly late paying rent.

Three late payments are the minimum number sufficient to justify a notice under these provisions.

It does not matter whether the late payments were consecutive or whether one or more rent payments have been made on time between the late payments.

Even if I exclude the late payment that was made in December 2014, as that is quite some time ago, it is my finding that the landlord has shown that there were at least three late payments, prior to serving the Notice to End Tenancy, and therefore it's my decision that I will not cancel the Notice to End Tenancy, and this tenancy ends.

Having upheld the Notice to end Tenancy for repeated late rent payments, there is no need for me to deal with the other reasons given on the Notice.

The Notice to End Tenancy that was served on the tenants had an end of tenancy date of August 31, 2016, and, since that date is already past, it is my decision that I will issue an Order of Possession to the landlord that is enforceable two days after service on the tenants.

Conclusion

The tenant's application to cancel the one month Notice to End Tenancy is dismissed without leave to reapply.

Pursuant to section 55 of the Residential Tenancy Act, I have issued an Order of Possession to the landlord that is enforceable two days after service on the tenants.

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: September 19, 2016

Residential Tenancy Branch