



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding NORTHLAND PROPERTIES CORP.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNR, CNC, OPR, MNR, MNSD, FF

Introduction

This hearing was convened in response to applications by the landlord and the tenant.

The landlord's application is seeking orders as follows:

1. For an order of possession based on cause;
2. For a monetary order for unpaid rent;
3. To keep all or part of the security deposit; and
4. To recover the cost of filing the application.

The tenant's application is seeking orders as follows:

1. To cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, issued on August 2, 2016; and
2. To cancel a 1 Month Notice to End Tenancy for Cause, issued on July 28, 2016.

Both parties appeared, gave testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

Preliminary matter

At the outset of the hearing the landlords' agents indicate that they did not serve their application for dispute resolution on the tenant. Since the landlord's application was not served as required by the Act and the principles of natural justice require that a person be informed and given particulars of the claim against them. I dismiss the landlord's application with leave to reapply.

Issues to be Decided

Should the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities be cancelled?
Should the 1 Month Notice to End Tenancy for Cause be cancelled?

Background and Evidence

The tenancy began on May 1, 2016. Rent in the amount of \$815.00 was payable on the first of each month. A security deposit of \$407.00.00 was paid by the tenant.

The tenant acknowledged that they received the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, issued on August 2, 2016. The tenant acknowledged that they have not paid any rent since receiving the notice. The tenant stated that the landlord has made an error in the spelling of their name in the notice.

The tenant stated that they do not agree with the 1 Month Notice to End Tenancy for Cause, and has not paid any rent as they landlord is evicting them for false reasons.

The landlords' agent stated that the tenant has not paid any rent for three months and they seek an order of possession.

Analysis

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

Based on the testimony of the tenant, I find that the tenant was served with a Notice to End Tenancy for non-payment of rent. Although the notice has spelt the tenant's name incorrectly, I find it appropriate and reasonable to amend the notice pursuant to section 68 of the Act, to reflect the proper spelling of the tenant's name as the evidence supports the tenant clearly knew the notice was issued to them and they disputed it.

Under the legislation the tenant may dispute the notice for specific reasons, such as they have proof that their rent was paid or that the tenant had the right under the Act to deduct all or a portion from their rent, such as an order from an Arbitrator.

Although the tenant filed an application for dispute resolution within the time limit permitted under the Act, I find the tenant's application had no merit. The tenant admitted rent was not paid within five days after receiving the notice and has not paid any rent for three months. I find the tenant has breached section 26 of the Act. Therefore, I dismiss the tenant's application to cancel the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, issued on August 2, 2016.

As the tenant's application is dismissed, pursuant to section 55 of the Act, I must grant the landlord an order of possession.

Order of possession for the landlord

55 (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant an order of possession of the rental unit to the landlord if, at the time scheduled for the hearing,

(a) the landlord makes an oral request for an order of possession, and

(b) the director dismisses the tenant's application or upholds the landlord's notice.

I find that the landlord is entitled to an order of possession, pursuant to section 55 of the Act, effective **two days** after service on the tenant. This order may be filed in the Supreme Court and enforced as an order of that Court.

As I have found the tenancy has legally ended based on non-payment of rent, I find it not necessary to consider the merits of the 1 Month Notice to End Tenancy for Cause.

Conclusion

The landlord's application is dismissed with leave to reapply.

The tenants failed to pay rent. The landlord is granted an order of possession, pursuant to section 55 of the Act.

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: October 03, 2016

Residential Tenancy Branch