



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, MNDC, MNSD, FF

Introduction

The landlord applies for an order of possession pursuant to a one month Notice to End Tenancy for cause dated October 25, 2016 and received by the tenant later that month. His application also claims for \$800.00 rent. At hearing the rent claim was withdrawn.

Both parties attended the hearing and were given the opportunity to be heard, to present sworn testimony and other evidence, to make submissions, to call witnesses and to question the other. Only documentary evidence that had been traded between the parties was admitted as evidence during the hearing.

Issue(s) to be Decided

Has the Notice resulted in an end to this tenancy?

Background and Evidence

The rental unit is a one bedroom apartment in a twenty unit apartment building. The rent has been \$800.00 and was scheduled to increase to \$825.00 effective January 1, 2017. Rent is due on the first of each month, in advance.

The landlord says he holds a \$400.00 security deposit and a \$350.00 pet damage deposit. The tenant says he has paid more deposit money than that but does not have a readily available record of payments.

The facts are not disputed that the tenant received the Notice in October and did not make an application to cancel it, either within the permitted ten day period following receipt or at all.

The tenant was asked by me whether he was operating under any disability. He stated he had: "ADD", "ADHD", brain damage and a sight impairment. He did not claim that any of these conditions prevented him from determining the substance of the Notice or the directions contained in it about challenging the Notice and the outcome if no challenge was brought.

Analysis

The law is clear. Section 47 of the *Residential Tenancy Act* provides that on receipt of a one month Notice to End Tenancy for cause the tenant has ten days to make an application to cancel the Notice. On such an application a landlord is put to proving the grounds for the Notice. In the event the tenant does not challenge the Notice, he is "conclusively deemed" to have accepted the end of the tenancy on the effective date given in the Notice.

The tenant did not bring the necessary application and as a result, this tenancy ended by operation of s. 47 on November 30, 2016.

The landlord is entitled to an order of possession.

Conclusion

The landlord's application is allowed. An order of possession will issue. The landlord is entitled to recover the \$100.00 filing fee for this application. I authorize him to recover the amount of \$100.00 from the security deposit he holds, in full satisfaction of the fee.

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: January 04, 2017

Residential Tenancy Branch