



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL, MNDC, OLC

Introduction

This hearing dealt with an Application for Dispute Resolution filed by the tenants to cancel a 2 Month Notice to End Tenancy for Landlord's Use of Property (the "Notice") issued on October 31, 2016, with and effective vacancy date of December 31, 2016, for a monetary order for money owed or compensation under the Act.

Both parties appeared, gave affirmed 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.

The parties confirmed receipt of all evidence submissions and there were no disputes in relation to review of the evidence submissions.

Preliminary and procedural matters

At the outset of the hearing CS was identified as a co-tenant. Therefore, I found it appropriate to add CS as an applicant to the style of cause.

In this case the tenants received the Notice on October 31 2016. Under section 49(8) of the Act, the tenants had 15 days to dispute the Notice. I find the tenants had until November 15, 2016, to dispute the Notice.

The tenants did not file their application to dispute the Notice until January 3, 2017, which is outside side the time frame set-out in the Act and past the effective date in the Notice.

Under section 49(9) of the Act, if a tenant who has does not make an application for dispute resolution in accordance with subsection (8), the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and must vacate the rental unit by that date.

Therefore, I find the tenancy has legally ended under the Act on December 31, 2016, I find I have no authority to reinstate the tenancy. Therefore, I dismiss this portion of the tenants' application.

The tenants were informed of this legislation at the hearing, the tenant CS behaviour became inappropriate, argumentative and was using inappropriate foul language which was directed at the Arbitrator. The male tenant was asked to leave the hearing. Since the tenants were only on one phone line that concluded the evidence for the tenants.

I have reviewed the balance of the tenants' claim. I find their claim has no merit.

In this case the tenants seek compensation for not using the landlord's internet service and obtained their own. However, that was a personal choice of the tenants not to use the service provided by the landlord. Therefore, I dismiss this portion of their claim without leave to reapply.

The tenants seek compensation for three months of rent due to a lease dispute; however, they are on a month to month tenancy and there is no portion of the Act that give the tenants compensation for not extending a fixed term agreement. Therefore, I dismiss this portion of their claim without leave to reapply.

The tenants seek compensation for pain and suffering no evidence was provided. Therefore, I dismiss this portion of their claim without leave to reapply.

As I have dismissed the tenants' application. I find the landlord is entitled to an order of possession.

In this case, the landlord indicated that the tenants' rent cheques for January 2016, were not cashed and returned to the issuer and as the tenants have been occupying the premises for the month of January 2017, I find the tenant have received compensation equal to one month rent to satisfy the landlord requirements under the Notice.

Based on the above, I grant the landlord an order of possession, pursuant to section 55 of the Act, effective **January 31, 2016 at 1:00 pm**. This order may be filed in the Supreme Court and enforced as an order of that Court. The **tenants are cautioned** that costs of such enforcement are recoverable from the tenant.

Conclusion

The tenants' application is dismissed without leave to reapply. The landlord is granted an order of possession.

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 25, 2017

Residential Tenancy Branch