



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes cnc, erp, psf, o, ool, rp, rr

Introduction

The tenants claim for a wide variety of orders, including an order to cancel a one month Notice to End Tenancy. Both parties attended the hearing, and testimony was heard from all parties.

I clarified at the start of the hearing that the dispute of the one month Notice would be heard, together any related claims to that issue, but not the other claims listed by the tenants in their application. One of the objectives of the Rules of Procedure for hearings of this nature is to ensure a consistent, efficient and just process for resolving disputes (Rule 1.3). It is not possible within this context to deal with an array of issues of concern to the tenants in one short hearing. Accordingly, hearings are generally limited to issues that are related in fact and law. In this case the claims by the tenants that are not related to the issue of the disputed Notice to End this tenancy were not decided. Given the outcome of this claim, no liberty to reapply is granted.

Issue(s) to be decided

1. Is the notice valid to end the tenancy, or should the tenancy continue?
2. Is the landlord entitled to an Order of Possession?

Background and Evidence

This tenancy began November 1, 2013. Monthly rent is \$1,506.00, due and payable on the first of each month. A security deposit of \$675.00 was paid.

On December 27, 2016, the tenants received a One Month Notice to End Tenancy, given on the basis that the tenant was repeatedly late paying rent. On December 29, 2016 the tenants filed their application requesting an order to cancel the Notice.

The landlord testified that the tenants had been late with their rent in May 2016, June 2016, July 2016, November 2016 and December 2016. The landlord also referred to some late payments occurring in 2014. The tenants denied that they were late in July, but acknowledged the other late payments. The male tenant submitted that he did not recall ever being warned that the tenancy was in jeopardy, and that the landlord accepted the rent late, and sometimes charged a late rent fee.

Analysis

A claim of repeated late payment of rent can be proven with as few as three late payments, and in this case that number has occurred, as it is proven that the rent was late in December, November, and June of 2016. None of these late payments were attributable to fault by the landlord in any way, and while the tenants may have explanations for the late payments, the Residential Tenancy Act does not permit me discretion to consider those reasons.

I therefore must dismiss the tenants' application to cancel the one month Notice. I find the Notice to be effective to end the tenancy, effective January 31, 2017.

Section 55 (1) of the Residential Tenancy Act provides that if a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant to the landlord an order of possession of the rental unit if the landlord's notice is proper as to form and content, and the tenant's application to cancel the Notice is dismissed. Those conditions are met, and accordingly, an Order of Possession is granted to the landlord. This Order is effective 48 hours following service of the Order upon the tenants. I note however, that if the Landlord has accepted rent for February 2017 prior to receipt of this decision, the tenancy will continue on a use and occupation basis until February 28, 2017, and in that event the said Order must not be served prior to February 27, 2017.

Conclusion

The tenants' application is dismissed. The landlord is granted an Order of Possession, effective 48 hours following service upon 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: January 30, 2017

Residential Tenancy Branch