



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNC

Introduction

This hearing dealt with an application by the tenant for an order to set aside a notice to end tenancy for cause. Both parties attended the hearing and had opportunity to be heard.

Issue to be Decided

Does the landlord have grounds to end this tenancy?

Background and Evidence

The tenancy began on December 01, 2016. The rent is \$800.00 due on the first of the month.

On February 27, 2017, the landlord served the tenant with a notice to end tenancy for cause. The tenant disputed the notice in a timely manner. The notice to end tenancy was served for the following reasons;

- Tenant is repeatedly late paying rent

The landlord stated that the tenant has paid rent late every month since January 01, 2017. The tenant agreed that he paid rent late in January 2017 (January 02), and in February 2017 (February 11). The tenant stated he paid rent on time in March 2017 and agreed that as of the date of this hearing (April 07, 2017), he had not yet paid rent for April.

At the time that the landlord served the notice to end tenancy, the tenant was late paying rent twice – in January and February 2017.

Analysis

In order to support the notice to end tenancy, the landlord must prove that the reason for the notice to end tenancy applies. Based on the testimony of both parties, I find that the tenant was late paying rent on at least three occasions since the start of tenancy in December 2016.

Pursuant to section 38 of the *Residential Tenancy Policy Guideline*, three late payments are the minimum number sufficient to justify a notice under these provisions. However, as of February 27, 2017 at the time the landlord served the tenant with the notice to end tenancy for cause, the tenant had paid rent late on only two occasions. Since 3 late payments is the minimum number required to serve a notice such as this one, I find that the landlord has not proven the reason to end the tenancy for cause and accordingly, I must set this notice aside.

The landlord is at liberty to serve another notice to end tenancy for late payment of rent because after this notice to end tenancy dated February 27, 2017 was served on the tenant, the tenant has been late paying rent on a total of at least three occasions.

Conclusion

The notice to end tenancy is set aside and the tenancy will continue.

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: April 07, 2017

Residential Tenancy Branch