



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, FF

Introduction

This hearing was convened by way of conference call concerning an application made by the tenant seeking an order cancelling a notice to end the tenancy for cause and to recover the filing fee from the landlords for the cost of the application.

The tenant and one of the landlords attended the hearing and each gave affirmed testimony. The parties were also given the opportunity to question each other, and all evidence provided has been reviewed and is considered in this Decision.

No issues with respect to service or delivery of documents or evidence were raised.

Issue(s) to be Decided

Has the landlord established that the One Month Notice to End Tenancy for Cause was issued in accordance with the *Residential Tenancy Act*?

Background and Evidence

The landlord testified that this month-to-month tenancy began on September 11, 2015 and the landlords purchased the rental unit in January, 2016. The rental unit is a 2-bedroom basement suite and on or about March 1, 2016 the landlords moved into the upper level of the home, and the tenant still resides in the rental unit. Rent in the amount of \$800.00 per month is payable on the 1st day of each month and there are no rental arrears. The landlords currently hold a security deposit in the amount of \$450.00, and no pet damage deposit was collected by the previous or current landlords. A copy of the tenancy agreement has not been provided.

The landlord further testified that on April 18, 2017 the landlord personally served the tenant with a One Month Notice to End Tenancy for Cause dated April 18, 2017 with an expected date of vacancy of May 18, 2017. The landlord testified that the reason for

issuing it on page 2 is that the tenant has jeopardized a lawful right of another person or the landlord. Another person has been living in the rental unit since December, 2016, and the landlords believe additional rent should be paid, but the tenant refuses. The landlord does not know if the tenant collects rent from the other person, and tells the landlords that the person is the tenant's guest.

Also, the tenant has been smoking in the rental unit.

The landlord has attempted to create a new tenancy agreement that specifies the number of people living in the rental unit and that rent increases when there are other tenants residing there. However, the tenant refuses.

The tenant testified that the landlords pressured the tenant into paying additional rent and the tenant did so a few times, being \$200.00 per month for 2 months, until the Residential Tenancy Branch advised that it's not right, and the person staying there is a guest in the tenant's home. The tenant has recently had major surgery and the person is the tenant's caregiver but will only be there until the third week of June. The person has his own residence and it's not right to charge him rent for caregiving services.

The tenant further testified that rent is \$800.00 per month because of issues with the basement suite. There is no thermostat so it's been very cold all winter; the tenant can't take a bath because there's not enough hot water; and now the landlord wants to charge more rent.

The tenant agrees that he was served with a One Month Notice to End Tenancy for Cause, and has provided a copy. The notice provided has page 1 of the 2-page notice, and a hand-written document entitled "Details of Cause."

Analysis

Where a tenant disputes a notice to end a tenancy given by a landlord, the onus is on the landlord to establish that it was given in accordance with the *Residential Tenancy Act*. In this case, the tenant testified that he did not receive page 2 of the 2-page notice, but received page 1 and an additional hand-written "Details of Cause." The landlord has provided no evidence at all. In order to be valid, both pages of the 2-page form must be served. Since the landlord did not provide evidence of what was served, and the tenant has provided evidence of that, and testified that he didn't receive page 2, I cannot be satisfied that the notice given is in the approved form, and I cancel it.

Since the tenant has been successful with the application the tenant is also entitled to recovery of the \$100.00 filing fee. I order that the tenant may reduce rent for a future month by that amount or may otherwise recover it.

Conclusion

For the reasons set out above, the One Month Notice to End Tenancy for Cause dated April 18, 2017 is hereby cancelled and the tenancy continues.

I hereby grant a monetary order in favour of the tenant as against the landlords pursuant to Section 67 of the *Residential Tenancy Act*, as recovery of the filing fee, and I order that the tenant be permitted to reduce rent for a future month by that amount or may otherwise recover it.

This order is final and binding and may be enforced.

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: May 24, 2017

Residential Tenancy Branch