



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC FF

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- cancellation of a 1 Month Notice to End Tenancy For Cause, pursuant to section 47;
- authorization to recover the filing fee for this application pursuant to section 72.

The hearing was conducted by conference call. All named parties attended the hearing and were given a full opportunity to be heard, to present evidence and to make submissions.

The tenant's application was filed within the time period required under the Act.

Issues

Should the landlord's 1 Month Notice be cancelled? If not, is the landlord entitled to an order of possession?

Background and Evidence

The tenancy began on December 1, 2014 with a current monthly rent of \$950.00 payable on the 1st day of each month.

The landlord served the tenants with the 1 Month Notice in person on June 1, 2017. The only box checked off on the 2nd page of the 1 Month Notice is that the tenant is repeatedly late paying rent.

The tenant submits they are never late paying rent and provided rent receipts in support.

The landlord did not dispute the tenants paid rent on time but rather argued the tenants have an additional occupant contrary to the tenancy agreement.

Analysis

Section 47 of the Act contains provisions by which a landlord may end a tenancy for cause by giving notice to end tenancy. Pursuant to section 47(4) of the Act, a tenant may dispute a 1 Month Notice by making an application for dispute resolution within ten days after the date the

tenant received the notice. If the tenant makes such an application, the onus shifts to the landlord to justify, on a balance of probabilities, the reasons set out in the 1 Month Notice.

In this case, the landlord issued the 1 Month Notice pursuant to paragraph 47(1)(b) of the Act, which permits a landlord to terminate a tenancy if the tenant has been repeatedly late paying rent.

Section 52 of the Act requires that in order to be effective, a notice to end tenancy must state the grounds for ending the tenancy.

Page 2 of the 1 Month Notice to End Tenancy requires a landlord to put an "x" in all boxes that apply as the grounds for issuing the Notice. The landlord failed to check off any of the boxes aside from repeated late payments of rent. The landlord was seeking an end to the tenancy based upon the tenants allegedly having an additional occupant and not for repeated late payments of rent. As such, I find the 1 Month Notice did not state the correct grounds for ending the tenancy. It is important to correctly state the grounds for ending the tenancy so the tenants may properly respond to the 1 Month Notice.

Accordingly, the 1 Month Notice to End Tenancy dated May 31, 2017, is hereby cancelled and of no force or effect.

As the tenants were successful in this application, I find that the tenants are entitled to recover the \$100.00 filing fee paid for this application from the landlord. The tenants may reduce a future rent payment in the amount of \$100.00.

Conclusion

I allow the tenant's application to cancel the landlord's 1 Month Notice, dated May 31, 2017, which is hereby cancelled and of no force or effect. This tenancy continues until it is ended in accordance with the *Act*.

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: July 27, 2017

Residential Tenancy Branch