



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPC CNC RP FF

Introduction:

Both parties attended and the tenant agreed they received personally the One Month Notice to end Tenancy for cause dated June 20, 2017 to be effective July 31, 2017 and the Application for Dispute Resolution by registered mail. The landlord agreed he received the tenant's Application by registered mail also. I find the parties were legally served with the documents according to sections 88 and 89 of the Act. The landlord applies pursuant to the *Residential Tenancy Act* (the Act) for orders as follows:

- a) An Order of Possession pursuant to Sections 47, and 55 for cause; and
- b) An order to recover the filing fee pursuant to Section 72.

The tenant applies pursuant to the Act for orders as follows:

- c) To cancel a Notice to End Tenancy for cause;
- d) To order the landlord to do repairs; and
- e) To recover the filing fee.

Issue(s) to be Decided:

The tenant was issued a Notice to End Tenancy dated June 20, 2017 for cause. Has the landlord proved on the balance of probabilities that there is good cause to end this tenancy and obtain an Order of Possession? Are they entitled to recover the filing fee?

Or is the tenant entitled to any relief and to recover the filing fee? Is he entitled to an Order that the landlord do repairs?

Background and Evidence:

Both parties attended and were given opportunity to be heard, to present evidence and to make submissions. The undisputed evidence is that the tenancy commenced March 20, 2017 on a fixed term lease to February 28, 2019, a security deposit of \$1450 was

paid and rent is currently \$2900 a month. The landlord served the Notice to End Tenancy for he has evidence the tenant has been subletting part of the home without his permission.

The landlord explained how his wife went to the unit to inspect a new fence that was installed. A woman, J., came and introduced herself as the new renter and explained she had responded to an advertisement in a market advertising a suite in this home for rent. J. told the landlord's wife that they were paying \$850 a month. The landlord and his wife met with the sub tenants to confirm their information. The male sub tenant said he worked with the tenant and agreed to rent the suite but had no formal rental agreement. He confirmed he had paid a security deposit of \$425 which was half of the monthly rent. The female, J., confirmed the information again and said she was not related to the tenants and wrote down the information about the advertisement for rent on her business card provided as digital evidence.

The landlord said that on June 7, 2017 they responded to a request from the tenants on June 6, 2017, about the repair of a kitchen faucet and possible leak. He said that the tenant admitted to him they were subletting to a family without the landlord's permission but they were his cousins and only paying \$400 a month. He was unwilling to come up with a solution and said the landlord should serve him a Notice to End Tenancy.

In the hearing, the tenant alleged his cousins were staying with him temporarily, they were not renting, they were guests. He objected to the landlord recording his conversations with him without his consent. On the basis of the documentary and solemnly sworn evidence presented at the hearing, a decision has been reached.

Analysis

Order of Possession

I find that the landlord is entitled to an Order of Possession. I find his evidence was given in a straightforward manner and was consistent throughout. I find it is consistent with the conversations he had with the sub tenants. I find the weight of the evidence is that the tenant sublet a suite in the unit without the landlord's permission or written consent. I find the tenant's versions to be inconsistent. I find the weight of the evidence is that the sub tenants are not relatives and guests but are applicants who responded to an advertisement and rented the unit from him. I dismiss the Application of the tenant to cancel the Notice to End Tenancy. An Order of Possession is issued effective October 31, 2017 as agreed by the landlord to allow the tenants time to move.

In respect to the tenant's request for Orders to Repair, I find it is moot as his tenancy is ended. In any case, I find the weight of the evidence is that the landlord was not neglecting to repair and had been attending to such requests when he found the tenant was subletting. I dismiss this portion of the tenant's Application.

Conclusion:

I dismiss the Application of the tenant in its entirety without recovery of his filing fee and without leave to reapply. I find the landlord is entitled to an Order of Possession effective October 31, 2017. I find the landlord is entitled to recover filing fees paid for this application.

I HEREBY ORDER THAT the landlord may recover his filing fee by deducting \$100 from the security deposit of the tenant, leaving a balance of \$1350 in trust.

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: August 24, 2017

Residential Tenancy Branch