



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding MARY ST APARTMENTS INC (NGO
and [tenant name suppressed to protect privacy])

DECISION

Dispute Codes: OPC MND FF

Introduction:

Only the tenant/respondent attended the hearing and gave sworn testimony. The Notice to End Tenancy is dated May 30, 2017 to be effective June 30, 2017 and the tenant confirmed it was served personally on her but said the Application for Dispute Resolution was served by posting it on her door. I find the Application was not legally served for the purposes of this hearing as section 89 of the Act provides the Application must be served personally or by registered mail. The landlord applies pursuant to the *Residential Tenancy Act* (the Act) for orders as follows:

- a) To obtain an Order of Possession for cause pursuant to section 47; and
- b) To recover the filing fee for this application.

Issue(s) to be Decided:

Has the landlord proved on the balance of probabilities that the tenancy is ended pursuant to section 47 and they are entitled to an Order of Possession? Is the landlord entitled to recover the filing fee?

Background and Evidence:

Only the tenant/respondent attended the hearing and was given opportunity to be heard, to provide evidence and to make submissions. She said her tenancy commenced in 2016 but doesn't recall the month, it is a month to month tenancy, rent is \$625 a month and a security deposit of \$312.50 was paid. After waiting 10 minutes, the landlord had still not attended to support his Application.

The landlord served the Notice to End Tenancy pursuant to section 47 for the following reasons:

- a) The tenant or a person permitted on the property by them
 - (i) has significantly interfered with and unreasonably disturbed another occupant or the landlord;
 - (ii) has seriously jeopardized the health, safety or lawful right of another occupant or the landlord; and
 - (iii) put the landlord's property at significant risk.

- b) The tenant or a person permitted on the property by them has engaged in illegal activity that has, or is likely to;
 - (iv) adversely affect the quiet enjoyment, security, safety or physical well being of another occupant.

The tenant denies she has caused the problems as listed. She said she sometimes has relatives over and they might get a bit noisy but she and her visitors do not significantly interfere with anyone or engage in illegal activity. She requests dismissal of the landlord's Application. She said this is his second Application in relation to this Notice to End Tenancy but neither he nor she attended the last hearing.

Analysis:

Section 47 of the Act provides a landlord may end a tenancy if there is sufficient cause. Causes, any one of which may be a sufficient reason, are listed in that section. I find the landlord did not submit documents or attend the hearing to prove they have sufficient cause to end the tenancy. I find also that they did not legally serve the tenant with the Application/Notice of Hearing. I dismiss the landlord's Application due to insufficient evidence to prove good cause to end the tenancy and for lack of legal service of the Application/Notice of Hearing.

Conclusion:

For the reasons stated above, I dismiss the landlord's Application without leave to reapply. I find they are not entitled to recover their filing fee due to their lack of success. I set aside and cancel the Notice to End Tenancy dated May 30, 2017. The tenancy is continued.

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: November 29, 2017

Residential Tenancy Branch