



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPL CNL, FF

Introduction

This hearing dealt with applications by the landlord and the tenant, pursuant to the *Residential Tenancy Act*. The landlord applied for an order of possession pursuant to a notice to end tenancy for landlord's use of property. The tenant applied for an order to set aside the notice to end tenancy. Both parties applied for the recovery of the filing fee.

Both parties attended the hearing and had opportunity to be heard. The parties acknowledged receipt of evidence submitted by the other and gave affirmed testimony.

Issue to be Decided

Does the landlord have grounds to end this tenancy? Is the tenant entitled to the recovery of the filing fee?

Background and Evidence

The tenancy began in December 2014. The current monthly rent is \$1,576.00. On September 14, 2017, the landlord served the tenant with a notice to end tenancy for landlord's use of property. The tenant disputed the notice in a timely manner.

The tenant testified that the landlord had served with him with prior notices to end tenancy for cause and had made a monetary offer to him to move out. The landlord testified that her son is currently living in her home. The landlord added that her spouse and she run their businesses from their home and for lack of space; she currently has her office desk in her kitchen.

The tenant stated that he believes that the landlord's son will move into the home but is doing so for the sole purpose of fulfilling the six month legal requirement to satisfy the conditions of a notice to end tenancy for landlord's use of property.

The reasons for the notice were discussed at length. During the hearing the parties engaged in a conversation, turned their minds to compromise and achieved a resolution of their dispute.

Analysis

Pursuant to Section 63 of the *Residential Tenancy Act*, the Arbitrator may assist the parties settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order.

During this hearing, the parties reached an agreement to settle their dispute under the following terms.

1. The tenant agreed to move out by 1:00 pm on April 01, 2018.
2. The landlord agreed to extend the tenancy up to 1:00 pm on April 01, 2018.
3. An order of possession will be issued in favour of the landlord effective this date.
4. The tenant agreed to pay all outstanding rent for the months of November and December on January 01, 2018 along with rent for January 2018.
5. The landlord agreed to accept rent for November, December and January on January 01, 2018.
6. The parties agreed to exercise any additional goodwill and spirit of cooperation necessary in regard to the above undertakings, which might be required to achieve a positive end to this landlord – tenant relationship.
7. Both parties acknowledged that they understood and agreed with the above terms of their agreement.

As this dispute was resolved by mutual agreement and not based on the merits of the case, I decline the parties' requests to recover the filing fee.

The tenancy will end pursuant to a notice to end tenancy for landlord's use of property. The parties must be compliant with s.49 and s.51 of the *Residential Tenancy Act*. The tenant is entitled to the last month of rent free stay.

Pursuant to section 55 I am issuing a formal order of possession effective by 1:00 pm on April 01, 2018. The Order may be filed in the Supreme Court for enforcement.

Conclusion

The tenant and the landlord have reached a settled agreement, as recorded above. This settlement agreement was reached in accordance with section 63 of the *Residential Tenancy Act*. The parties are bound by the terms of this agreement, as well as by the terms of their tenancy agreement and the Act. Should either party violate the terms of this settled agreement, the tenancy agreement or the Act, it is open to the other party to take steps under the Act to seek remedy.

I grant the landlord an order of possession effective by **1:00 pm on April 01, 2018**.

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: December 13, 2017

Residential Tenancy Branch