



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding THE PROPERTY MANAGERS
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: CNC OPC RP FF

Introduction

Both parties attended the hearing and gave sworn or affirmed testimony. The One Month Notice to End Tenancy is dated December 18, 2017 to be effective January 31, 2018 and the tenant confirmed it was served by posting it on the door. The tenant /applicant gave evidence that they served the Application for Dispute Resolution dated December 20, 2017 by registered mail and the landlord agreed they received it. I find the documents were legally served pursuant to sections 88 and 89 of the Act for the purposes of this hearing. The tenant applies pursuant to the *Residential Tenancy Act* (the Act) for orders as follows:

- a) To cancel a notice to end tenancy for cause pursuant to section 47;
- b) For the landlord to make the necessary repairs; and
- c) To recover the filing fee for this application.

Issue(s) to be Decided:

Has the landlord proved on the balance of probabilities that there is sufficient cause to end the tenancy or is the tenant entitled to any relief? Is the landlord entitled to an Order of Possession if the tenant is unsuccessful in the application?

Background and Evidence

Both parties attended the hearing and were given opportunity to be heard, to provide evidence and to make submissions. The undisputed evidence is that the tenancy commenced March 1, 2007, rent is \$1400 a month and a security deposit of \$700 plus a pet damage deposit of \$700 was paid. The landlord served a Notice to End Tenancy for the following reasons:

- a) The tenant is repeatedly late in paying rent.

The landlord provided a list of dates showing rent was late every month from April 2017 to December 2017. The tenant said they always apologized and did pay but there were

problems in getting the rent to the landlord as the office frequently closed early and they did not accept e transfer. The landlord said they accepted rent paid in a number of ways such as preauthorized debit, post dated cheques, through rent moola or by direct debit. The tenant said they had a number of problems at the time and had difficulty getting the rent to the landlord.

The tenant pointed out that they had a number of repairs which were not completed for one month. She provided letter notification on August 1, 2017 and the owner did not come to do the repairs until September 6, 2017. The landlord pointed out that this was not listed as a separate issue in the tenant's application so they had no notice to prepare their invoices and evidence regarding dates of repair. Both parties confirmed the repairs were made in September and the tenant had not requested a rebate of rent.

After some negotiation, the landlord agreed on an effective date of February 28, 2018 for an Order of Possession but said she had no authority from the owner to grant more time. The tenant has paid her rent for February 2018.

On the basis of the documentary and solemnly sworn evidence presented for the hearing, a decision has been reached.

.

Analysis:

Section 47 of the Act lists causes, any one of which if proven, is sufficient cause to end the tenancy. As discussed with the parties in the hearing, the onus is on the landlord to prove on a balance of probabilities that they have good cause to evict the tenant.

The landlord's listed cause is 'repeated late payment of rent'. I find the evidence of the landlord credible that the tenant has paid rent late from April 2017 to December 2017 and has received several 10 Day Notices to End Tenancy. The landlord's credibility is well supported by the evidence of the 10 Day Notices and the rental ledger and emails.

While the tenant may have had difficult circumstances, I find section 26 of the Act provides a tenant must pay rent on time, whether or not the landlord fulfills their obligations under the Act. I find the weight of the evidence is the tenant was repeatedly late in paying rent. I dismiss her Application to set aside the Notice.

Section 55 of the Act provides that when the tenant is unsuccessful in setting aside a Notice to End Tenancy, the landlord is entitled to an Order of Possession. I find the landlord entitled to an Order of Possession effective February 28, 2018 as requested.

I find the evidence is that the repairs were completed so an order to repair is not necessary.

Conclusion:

The Application of the Tenant to set aside the Notice to End Tenancy is dismissed without recovery of the filing fee. The tenancy is at an end on January 31, 2018. . An Order of Possession is issued to the landlord effective February 28, 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: February 13, 2018

Residential Tenancy Branch