



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding WESTVIEW CENTRE MOTEL
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: Landlord - *OPR, OPC, MND, MNR, FF*

Tenant - *CNRL, MNDC, OLC*

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 notices to end tenancy for non-payment of rent and for cause. The landlord also applied for a monetary order for unpaid rent and damages. The tenant applied to cancel the notices to end tenancy for non-payment of rent, for a monetary order and for an order directing the landlord to comply with the *Act*.

Both parties attended this hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. Both parties represented themselves along with their agents.

As both parties were in attendance I confirmed service of documents. The tenant confirmed receipt of the landlord's application for dispute resolution and evidence. The landlord said that he received the tenant's evidence the night before the hearing and was able to review the full package. I find that the tenant was served with the landlord's materials in accordance with sections 88 and 89 of the *Act*.

During the hearing the parties withdrew the monetary portions of their claims. Accordingly, this hearing only dealt with the landlord's application for an order of possession and the tenant's application to set aside the notices to end tenancy.

Issues to be decided

Is the landlord entitled to an order of possession or should the notices to end tenancy for non-payment of rent and cause be set aside?

Background and Evidence

The tenancy started on January 06, 2018. There is no written tenancy agreement. The rent is \$917.50 per month. Both parties agreed that the tenant paid partial rent for January 2018 and owed rent in the amount of \$548.54.

On April 13, 2018, the landlord served the tenant with a notice to end tenancy for non-payment of rent. The tenant disputed the notice in a timely manner but did not pay the outstanding rent and the tenant agreed that as of the date of this hearing he still owed rent.

Analysis

Landlord's application:

Pursuant to section 46 (4) of the *Residential Tenancy Act* within five days after receiving the notice to end tenancy, the tenant may pay the overdue rent or dispute the notice by making application for dispute resolution. If the tenant does not pay rent or dispute the notice, the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice and must vacate the rental unit, by that date.

The tenant was deemed to have received the notice to end tenancy for unpaid rent dated April 13, 2018 and did not pay rent within five days of receiving the notice to end tenancy and the time to do so has expired.

In these situations, the *Residential Tenancy Act* provides that the tenant has been deemed to have accepted the end of the tenancy on the date set out in the notice. Pursuant to section 55(2), I am issuing a formal order of possession effective by 1:00 pm on July 01, 2018. The order may be filed in the Supreme Court for enforcement.

Since I have upheld the notice to end tenancy for non-payment of rent, it is not necessary to address the other notice to end tenancy for cause.

Tenant's application:

I have upheld the notice to end tenancy for non-payment of rent and the landlord has been granted an order of possession. Since the tenancy is ending, the tenant's application for an order directing the landlord to comply with the *Act* is moot and accordingly dismissed.

Conclusion

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

The tenant's application is dismissed in its entirety. The tenancy has ended pursuant to a ten day notice to end tenancy for non-payment of rent.

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: June 19, 2018

Residential Tenancy Branch