



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, FFT

Introduction

This is an Application for Dispute Resolution (the “Application”) brought by the Tenants requesting a cancellation of a One Month Notice to End Tenancy for Cause, dated April 30, 2018. The Tenants also request an order for payment of the filing fee.

The Tenant, RH, and Landlord appeared for the scheduled hearing; the Landlord also had an advocate present, AP. I find that the notice of hearing was properly served and that written evidence was submitted for my consideration. Although all evidence was taken into consideration at the hearing, only that which was relevant to the issues is considered and discussed in this decision.

The hearing process was explained and parties were given an opportunity to ask any questions about the process. The parties were given a full opportunity to present affirmed evidence, make submissions, and to cross-examine the other party on the relevant evidence provided in this hearing.

I note that Section 55 of the *Residential Tenancy Act (Act)* requires that when a tenant submits an Application for Dispute Resolution seeking to cancel a notice to end tenancy issued by a landlord I must consider if the landlord is entitled to an order of possession if the Application is dismissed and the landlord has issued a notice to end tenancy that is compliant with the *Act*.

Issues to be Decided

Are the Tenants entitled to a cancellation of the One Month Notice to End Tenancy for Cause, pursuant to section 47 of the *Residential Tenancy Act* (“Act”)?

Should the tenant be unsuccessful in seeking to cancel the 10 Day Notice to End Tenancy for Unpaid Rent it must also be decided if the landlord is entitled to an order of possession pursuant to Section 55(1) of the Act?

Are the Tenants entitled to reimbursement of the \$100.00 filing fee pursuant to section 72 of the Act?

Background and Evidence

This tenancy began approximately 6 years ago, under a verbal agreement; the Tenants have been paying \$1,000.00 per month and claim no rent increase was made, until the Landlord requested one this past March.

The Tenant claims that the Landlord wanted to increase it to \$2,000.00 but the Tenants refused, stating that this increase exceeded that which is allowed under the law; further discussions about \$1,800.00 and \$1,500.00 per month occurred, as evidenced by copies of letters to the Landlord submitted by the Tenants. The Tenants wish to remain in the rental property.

The Landlord states that the cost of the property taxes and needed repairs caused a financial strain and he made a decision to renovate and sell the property. He states that he prepared the One Month Notice to End Tenancy for Cause dated April 30th, but that it was served on April 11th in person, with an effective date of May 31, 2018; the Tenant confirms receipt of the notice, and a dispute was filed on April 14, 2018 within the required deadline.

The Landlord was not able to offer a reason for dating the signature April 30th when the notice was delivered April 11th. The Notice has no reason indicated on the second page; the Landlord states it may have been an oversight, but that he gave the reason to the Tenants verbally. The Tenant denies ever hearing that the Landlord planned to renovate or sell the property, only that the Landlord needed to increase the rent to make ends meet.

Analysis

The Landlord argues that he wants to end the tenancy to renovate and sell the property. That is not a reason to end a tenancy with one month's notice under section 47; in order to terminate a tenancy with only one month's notice, there must be evidence of a "cause", or something that a tenant has done or failed to do that justifies an eviction. Section 47 states, in part:

47 (1) *A landlord may end a tenancy by giving notice to end the tenancy if one or more of the following applies:*

(a) the tenant does not pay the security deposit or pet damage deposit within 30 days of the date it is required to be paid under the tenancy agreement;

(b) the tenant is repeatedly late paying rent;

(c) there are an unreasonable number of occupants in a rental unit;

(d) the tenant or a person permitted on the residential property by the tenant has

(i) significantly interfered with or unreasonably disturbed

another occupant or the landlord of the residential property,

(ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant, or

(iii) put the landlord's property at significant risk;

(e) the tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that

(i) has caused or is likely to cause damage to the landlord's property,

(ii) has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property, or

(iii) has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;

(f) the tenant or a person permitted on the residential property by the tenant has caused extraordinary damage to a rental unit or residential property;

(g) the tenant does not repair damage to the rental unit or other residential property, as required under section 32 (3) [obligations to repair and maintain], within a reasonable time;

(h) the tenant

(i) has failed to comply with a material term, and

(ii) has not corrected the situation within a reasonable time after the landlord gives written notice to do so;

(i) the tenant purports to assign the tenancy agreement or sublet the rental unit without first obtaining the landlord's written consent as required by section 34 [assignment and subletting];

(j) the tenant knowingly gives false information about the residential property to a prospective tenant or purchaser viewing the residential property;

In this case, the Landlord did not provide a reason in the One Month Notice to End Tenancy, nor was there any evidence that he had *cause* to end it due to the action or inaction of the Tenants. Based on the written evidence before me, and the testimony provided by both parties, I find that the Landlord has failed to prove that he has provided proper and sufficient notice to end this tenancy for the reasons he stated. Accordingly, I am allowing the Tenants' Application and cancel the Notice to End Tenancy dated April 30th, 2018; the tenancy shall continue until such time it is ended with proper notice from one of the parties. As the Tenants were successful in their claim, I am awarding the \$100.00 filing fee, which shall be deducted from their monthly rent payment.

Conclusion

The One Month Notice to End Tenancy for Cause dated April 30, 2018 is hereby cancelled and of no force or effect. The tenancy shall continue. The Tenants are entitled to deduct the sum of \$100.00 from the next rent payment as reimbursement for the filing fee.

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 08, 2018

Residential Tenancy Branch