



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

This hearing was convened as a result of the Tenants' Application for Dispute Resolution, made on October 12, 2018 (the "Application"). The Tenants applied for an order cancelling a One Month Notice to End Tenancy for Cause, dated October 4, 2018 (the "One Month Notice"), pursuant to the *Residential Tenancy Act* (the "*Act*").

The Tenants were both in attendance at the hearing, although only T.M. participated. The Landlord attended the hearing on his own behalf. Both T.M. and the Landlord provided affirmed testimony.

On behalf of the Tenants, T.M. testified the Application package was served on the Landlord in person. The Landlord acknowledged receipt. The Landlord testified the documentary evidence upon which he relied was served on the Tenants in person. T.M. acknowledged receipt. No issues were raised during the hearing with respect to service or receipt of these documents. Pursuant to section 71 of the *Act*, I find the Application package and the Landlord's documentary evidence were sufficiently served for the purposes of the *Act*.

The parties were provided with a full opportunity to present their evidence orally and in written and documentary form, and make submissions. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue to be Decided

Are the Tenants entitled to an order cancelling the One Month Notice?

Background and Evidence

The Landlord submitted a copy of the tenancy agreement between the parties into evidence. It confirmed the tenancy began on August 15, 2018. Rent in the amount of \$1,000.00 per month is due on the first day of each month. The Tenants paid a security deposit of \$500.00, which the Landlord holds.

The Landlord provided testimony regarding the One Month Notice, which was served on the Tenants in person on October 4, 2018. The Application confirms the Tenants received the One Month Notice on that date.

The Landlords testified that the One Month Notice was issued on the basis of repeated late payments of rent. Specifically, the Landlord testified the Tenants paid rent as follows:

Rent due date	Amount due	Payment date	Amount paid
August 15, 2018	\$500.00	August 17, 2018	\$350.00
September 1, 2018	\$1,000.00	September 10, 2018	\$1,000.00
October 1, 2018	\$1,000.00	October 6, 2018	\$1,000.00
November 1, 2018	\$1,000.00	November 3, 2018	\$0

In support, the Landlord submitted copies of rent receipts into evidence.

On behalf of the Tenants, T.M. acknowledged rent was paid late as alleged. However, she testified it was late because of the timing of her paychecks. T.M. also testified that she tried to pay rent on November 1, 2018, but that she was unable to contact the Landlord.

Analysis

In light of the oral and documentary evidence submitted by the parties, and on a balance of probabilities, I find:

Section 47 of the *Act* permits a Landlord to take steps to end a tenancy for cause in the circumstances described therein. In this case, the Landlord wishes to end the tenancy on the basis that the Tenants have been repeatedly late paying rent.

Residential Tenancy Branch Policy Guideline #38 provides clarification with respect to ending a tenancy on the basis of repeated late payments of rent. It states:

Three late payments are the minimum number sufficient to justify a notice under these provisions.

It does not matter whether the late payments were consecutive or whether one or more rent payments have been made on time between the late payments...

...

Whether the landlord was inconvenienced or suffered damage as a result of any of the late payments is not a relevant factor in the operation of this provision.

[Reproduced as written.]

In this case, I find that the Tenants did not pay rent when due on August 15, September 1, October 1, and November 1, 2018. The Tenants have been repeatedly late paying rent. Accordingly, I find the Application to cancel the One Month Notice is dismissed, without leave to reapply.

When a tenant's application to cancel a notice to end tenancy is dismissed, and the notice complies with section 52 of the *Act*, section 55(1) of the *Act* requires that I issue an order of possession in favour of the landlord. Having reviewed the One Month Notice, I find it complies with section 52 of the *Act*. Accordingly, I grant the Landlord an order of possession, which will be effective on November 30, 2018, at 1:00 p.m.

Conclusion

The Application is dismissed, without leave to reapply.

Pursuant to s. 55(1) of the *Act*, the Landlord is granted an order of possession, which will be effective on November 30, 2018, at 1:00 p.m. The order of possession may be filed in and enforced as an order of the Supreme Court of British Columbia.

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 23, 2018

Residential Tenancy Branch