



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes AAT, CNC, DRI, FFT, OLC, OPT, PSF

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 47;
- an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement pursuant to section 62;
- an order to the landlord to provide services or facilities required by law pursuant to section 65;
- an order regarding a disputed additional rent increase pursuant to section 43;
- a determination regarding their dispute of an additional rent increase by the landlord pursuant to section 43;
- an Order of Possession of the rental unit pursuant to section 54;
- an order to allow access to or from the rental unit or site for the tenant or the tenant's guests pursuant to section 70; and
- authorization to recover his filing fee for this application from the landlord pursuant to section 72.

The landlord participated in the teleconference, the tenant did not. The tenant is the applicant in this matter and initiated the dispute resolution process. I am satisfied that the tenant was aware of today's hearing and start time, accordingly; the hearing proceeded and completed in their absence. The landlord was given a full opportunity to be heard, to present their sworn testimony, to make submissions, and to call witnesses. The landlord gave sworn testimony that his evidence was served on the tenant in accordance with the *Act*. I am satisfied that the tenant was served with the landlords' documentary evidence. I have reviewed all evidence and testimony before me that met

the requirements of the rules of procedure; however, I refer to only the relevant facts and issues in this decision.

Issue(s) to be Decided

Is the tenant entitled to have the notice to end tenancy cancelled? If not, is the landlord entitled to an order of possession?

Is the tenant entitled to an order compelling the landlord to act in accordance with the Act, regulation, or tenancy agreement?

Is the tenant entitled to an order to have the landlord provide services or facilities?

Is the tenant entitled to dispute a rent increase?

Is the tenant entitled to an order of possession of the subject unit?

Is the tenant entitled to an order allowing their guests' access to the unit?

Is the tenant entitled to the recovery of the filing fee for this application from the landlord?

Background and Evidence

The landlord gave the following testimony. The landlord testified that he is not sure when the tenancy began but the tenant was already in place when he purchased the home in 2015. The landlord testified that the tenant pays \$750.00 per month in rent. The landlord testified that the tenant has sublet the unit for the past fourteen months to a tenant that he had previously evicted from another unit. The landlord testified that the tenant did this without his permission, verbal or written. The landlord testified that the tenant was issued a One Month Notice to End Tenancy for Cause on November 18, 2018 for the following reasons:

*Tenant has allowed an unreasonable number of occupants in the unit/site and
Tenant has assigned or sublet the rental unit/site without landlord's written consent.*

The landlord testified that the tenant paid the rent for January 2019 but did not reinstate the tenancy.

Analysis

When a landlord issues a notice under section 47 of the Act they bear the responsibility to provide sufficient evidence to support the issuance of the notice. The landlord provided undisputed testimony, supporting documentation to show that the person

subletting the unit has been receiving mail at the address and residing there without the landlords' permission, and witness testimony to corroborate the landlords' testimony. The landlord has provided sufficient evidence to show that the tenant has sublet the unit without obtaining written permission. Based on the undisputed evidence before me, I find that the landlord is entitled to an order of possession pursuant to section 55 of the Act.

The One Month Notice to End Tenancy for Cause dated November 18, 2018 with an effective date of December 31, 2018 is confirmed. The notice complies with section 52 of the Act; it is of full effect and force. The tenancy is terminated. Based on the information provided by the landlord and their willingness; the order of possession takes effect at 1:00 p.m. on January 31, 2019.

The tenants' application is dismissed in its entirety without leave to reapply.

Conclusion

The landlord is granted an order of possession. The tenants' application is dismissed in its entirety without leave to reapply.

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: January 04, 2019

Residential Tenancy Branch