



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding GURDEV HOLDINGS LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC, MND, MNR, FF

Introduction

On May 3, 2019, the Landlord submitted an Application for Dispute Resolution requesting an order of possession for the rental unit; a monetary order for unpaid rent ; a monetary order for damage; and to keep all or part of the security deposit and or pet damage deposit.

The matter was set for a conference call hearing. The Landlord and Tenant attended the conference call hearing. The Tenant identified that he had a reporter in attendance. The parties were informed that the hearing is not recorded and in accordance with the Residential Tenancy Branch Rules of Procedure the hearing is not permitted to be recorded. The parties were ordered to stop any recordings.

The hearing process was explained. The parties were provided with an opportunity to ask questions about the hearing process. They were provided with the opportunity to present affirmed oral testimony and to make submissions during the hearing.

The parties confirmed that they have exchanged the documentary evidence that I have before me. 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.

Preliminary and Procedural Matters

The Landlord was granted a priority hearing due to the request for an order of possession of the rental unit based on the issuance of a One Month Notice To End Tenancy for Cause.

The Residential Tenancy Branch Rules of Procedure permit an Arbitrator the discretion to dismiss unrelated claims with or without leave to reapply. For example, if a party has applied to cancel a notice to end tenancy, or is applying for an order of possession, an Arbitrator may decline to hear other claims that have been included in the application and the Arbitrator may dismiss such matters with or without leave to reapply.

I find that the most important matter to determine is whether or not the tenancy is ending based on the issuance of a One Month Notice To End Tenancy for Cause. The Landlord's other claims are dismissed with leave to reapply.

Issues to be Decided

- Is the Landlord entitled to an order of possession for cause?
- Is the Landlord entitled to recover the cost of the filing fee?

Background and Evidence

The Landlord and Tenant testified that the tenancy began on April 01, 2014, on a month to month basis. Rent in the amount of \$800.00 is to be paid to the Landlord by the first day of each month. The Tenant paid a security deposit of \$400.00 to the Landlord.

The Landlord testified that he issued the Tenant a One Month Notice to End Tenancy for Cause ("the One Month Notice") in person to the Tenant on March 29, 2019. The Landlord provided a proof of service document that indicates the One Month Notice was served to the Tenant at 4:15 PM on March 29, 2019.

The reasons selected by the Landlord within the One Month Notice are as follows:

Tenant or a person permitted on the property by the Tenant has:

- *Seriously jeopardized the health or safety or lawful right of another occupant or the Landlord*
- *Put the Landlord's property at significant risk*

Tenant has engaged in illegal activity that has, or is likely to:

- *Damage the Landlord's property*
- *Jeopardize a lawful right or interest of another occupant or the Landlord*

Tenant has caused extraordinary damage to the unit/site property /park

Tenant has not done required repairs of damage to the unit/site

Non-compliance with an order under the legislation within 30 days after the Tenant received the order or the date in the order

The One Month Notice provides that the Tenant must move out of the rental unit by April 30, 2019.

The One Month Notice provides information on the rights of a Tenant. At the top of the form the Notice provides: "You may be EVICTED if you do not respond to this Notice." The Notice also informs the Tenant of the right to dispute the Notice within 10 days after receiving it. The Notice informs the Tenant that if an application to dispute the Notice is not filed within 10 days, the Tenant is presumed to accept the Notice and must move out of the rental unit on the effective date set out on page one of the Notice.

The Tenant testified that he received the One Month Notice around the time the Landlord said he issued it.

The Tenant was asked why he did not dispute the One Month Notice. The Tenant provided testimony that he did not dispute the Notice because he had paid his rent. The Tenant also testified that because the Landlord did not provide any proof of the allegations, he did not dispute the One Month Notice.

The Landlord seeks an order of possession for the rental unit, based on an undisputed One Month Notice To End Tenancy for Cause dated March 29, 2019. The Landlord testified that June 2019, rent was received from the Tenant.

Analysis

Based on the evidence before me, the testimony of the Landlord and Tenant, and on a balance of probabilities, I find that the Tenant received a One Month Notice To End Tenancy for Cause dated March 29, 2019. I accept the Landlord's evidence that the Tenant received the One Month Notice on March 29, 2019.

The One Month Notice provided the Tenant with his rights of dispute. If the Tenant believed that the Landlord did not have sufficient proof to support the reasons for ending the tenancy, the Tenant was required to dispute the Notice within 10 Days. The Tenants opportunity to dispute the Notice has expired.

I find that the Tenant did not apply to dispute the One Month Notice, and is therefore conclusively presumed under section 47(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice.

Section 55 of the Act provides that a Landlord may request an order of possession of a rental unit when a notice to end tenancy is given by a Landlord and the Tenant has not disputed the Notice and the time for making that application has expired.

I find that the Landlord is entitled to an order of possession, pursuant to section 55 of the Act, effective at 1:00 pm on June 30, 2019, after service on the Tenant. This order may be filed in the Supreme Court and enforced as an order of that Court. The Tenant is cautioned that costs of such enforcement are recoverable from the Tenant.

Section 72 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. I order the Tenant to pay the Landlord the \$100.00 fee that the Landlord paid to make application for dispute resolution. I authorize the Landlord to keep \$100.00 from the security deposit of \$400.00 in full satisfaction of the filing fee.

Conclusion

The Tenant did not file to dispute the One Month Notice. The Tenant is presumed under the legislation to have accepted that the tenancy ended on the effective date of the Notice.

The Landlord is granted an order of possession effective at 1:00 pm on June 30, 2019, after service on the Tenant.

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 17, 2019

Residential Tenancy Branch