



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Code CNC FF

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution, made on July 8, 2019 (the "Application"). The Tenant applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- an order cancelling a One Month Notice to End Tenancy for Cause, dated July 2, 2019 (the "One Month Notice");
- an order granting recovery of the filing fee.

The Tenant attended the hearing on her own behalf. The Landlord attended the hearing and was assisted by K.A., who assisted with translation. All in attendance provided a solemn affirmation.

The Tenant testified the application package was served on the Landlord by in person on or about July 9, 2019. The Landlord acknowledged receipt. I find the Application package was served on and received by the Landlord on that date. The Landlord did not submit documentary evidence in response to the Application.

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

Issues to be Decided

1. Is the Tenant entitled to an order cancelling the One Month Notice?
2. Is the Tenant entitled to recover the filing fee?

Background and Evidence

The parties agreed the Tenant rents a 2-bedroom, 1-bathroom unit from the Landlord. The tenancy began on September 1, 2014. Currently, rent is due in the amount of \$857.00 per month. The Tenant paid a security deposit of \$400.00, which the Landlord holds.

The Landlord wishes to end the tenancy. Accordingly, the Landlord issued the One Month Notice, which was served on the Tenant by posting a copy to the door of the Tenant's rental unit on July 2, 2019. The Tenant acknowledged receipt of the One Month Notice on July 5, 2019.

The One Month Notice was issued on the basis that the Tenant has allowed an unreasonable number of occupants in the rental unit. Although the Landlord did not submit documentary evidence in response to the Application, the Landlord testified that the Tenant has allowed another individual to occupy the rental unit.

In reply, the Tenant acknowledged that she had a guest stay with her for 1-1/2 months, but that the guest left in August. She confirmed she is the only occupant of the rental unit. The Tenant also testified she has been asked to increase rent in an amount greater than what is permitted under the Act. The Tenant also advised it has been suggested that the Landlord's mother may occupy the rental unit.

Analysis

Based on the documentary evidence and oral testimony provided during the hearing, and on a balance of probabilities, I find:

Section 47 of the *Act* permits a landlord to take steps to end a tenancy for the reasons described therein. In this case, the One Month Notice was issued on the basis identified above. However, section 47(4) confirms that a tenant who receives a notice to end tenancy under this section has 10 days to dispute the notice by making an

application for dispute resolution. In this case, I find the Tenant disputed the One Month Notice on time on July 8, 2019, six days after it was received.

The burden of providing evidence in support of the One Month Notice rests with the Landlord. In this case, I find there is insufficient evidence before me to end the tenancy. Although the Landlord suggested that the tenancy agreement includes a term that only the Tenant can occupy the rental unit, that provision was not submitted into evidence by either party. Further, the Tenant acknowledged she had a guest staying with her but that she is now the only occupant of the rental unit.

In light of the above, I find the One Month Notice is cancelled. The tenancy will continue until otherwise ended in accordance with the Act. Having been successful, I find the Tenant is entitled to recover the \$100.00 filing fee paid to make the Application, which I order may be deducted from a future rent payment at the Tenant's discretion.

Conclusion

The Application is dismissed, 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: September 10, 2019

Residential Tenancy Branch