



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Northern Concepts Developments Inc
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes **OLC, CNC, FFT**

Introduction

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

- An order for the landlord to comply with the *Act*, Regulations and/or tenancy agreement pursuant to section 62;
- An order to cancel a One Month Notice To End Tenancy for Cause pursuant to sections 47 and 55; and
- Authorization to recover the filing fee for this application from the landlord pursuant to section 72.

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 1:45 p.m. to enable the tenant to call into this teleconference hearing scheduled for 1:30 p.m.

The landlord attended the hearing, represented by property manager, TW ("landlord") and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord and I were the only ones who had called into this teleconference.

Preliminary Issue

At the commencement of the hearing, the landlord testified that the tenant misnamed the respondent in this proceeding as one of the officers of the corporate entity in his personal capacity rather than the corporate entity as named on the tenancy agreement. In accordance with section 64(3)(c) of the *Act*, the tenant's application is amended to reflect the parties' names as reflected on the tenancy agreement. The names shown on the cover page of this decision reflect those names.

Issue(s) to be Decided

Should the One Month Notice to End Tenancy for Cause be upheld or cancelled?

Should the landlord be ordered to comply with the *Act*, regulations or tenancy agreement?

Can the tenant recover the filing fee?

Background and Evidence

A copy of the tenancy agreement was provided as evidence by the landlord. The fixed one year tenancy began on December 1, 2019 to end on November 30, 2020. Rent was set at \$1,000.00 per month, payable on the first day of each month. According to the tenancy agreement, the tenant was required to pay a security deposit of \$500.00 by December 15, 2019.

The landlord provided the following undisputed testimony. The tenant never paid the security deposit to the landlord. On February 26, 2020, the landlord TW personally served the tenant with a One Month Notice to End Tenancy for Cause dated and signed February 26, 2020. The reason for ending the tenancy checked on the Notice was:

security or pet damage deposit was not paid within 30 days as required by the tenancy agreement

The address of the rental unit was shown on the Notice and the effective (move out) date stated on the Notice was March 31, 2020.

Analysis

Rule 7.3 of the Rules of Procedure provides that if a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application with or without leave to re-apply. Rule 7.4 states that evidence must be presented by the party who submitted it, or by the party's agent. If a party or their agent does not attend to present evidence, any written submissions supplied may or may not be considered.

Section 17 of the *Act* states a landlord may require, in accordance with this *Act* and the regulations, a tenant to pay a security deposit as a condition of entering into a tenancy agreement or as a term of a tenancy agreement. The landlord provided compelling evidence to indicate the tenant failed to pay the security deposit within 30 days as

required by the tenancy agreement, contrary to sections 17 and 47(1)(a). The landlord has satisfied me the tenancy should end for the reasons stated on the Notice.

The tenant did not attend the hearing which was scheduled by conference call at 1:30 p.m. and concluded at 1:50 p.m. As he did not attend, he did not present evidence regarding the merits of his application to cancel the Notice for me to consider. Consequently, I dismiss the tenant's application without leave to reapply. The tenant's application for an order that the landlord comply with the *Act* pursuant to section 62 and an order to recover the filing fee pursuant to section 72 are likewise dismissed.

Pursuant to section 55, if a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant to the landlord an order of possession of the rental unit if the landlord's notice to end tenancy complies with section 52 [*form and content of notice to end tenancy*], and the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

The landlord has given undisputed testimony to satisfy me that the landlord's notice complies with the form and content provisions of section 52 of the *Act*, which states that the notice must be in writing and must: (a) be signed and dated by the landlord or tenant giving the notice, (b) give the address of the rental unit, (c) state the effective date of the notice, (d) except for a notice under section 45 (1) or (2) [*tenant's notice*], state the grounds for ending the tenancy, and (e) when given by a landlord, be in the approved form. The landlord is entitled to an Order of Possession effective March 31, 2020. As that date has passed, the landlord is entitled to an Order of Possession effective two days after service upon the tenant.

Conclusion

The tenants' application is dismissed without leave to reapply.

I grant an Order of Possession to the landlord effective **2 days 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: April 20, 2020