



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **RR, RP, PSF, OLC, FFT, LRE, LAT, CNC, MNDCT**

Introduction

This hearing was set to deal with the tenant's application to cancel a 1 Month Notice to End Tenancy for Cause, orders for repairs and compliance, among other remedies, as amended.

Both parties appeared or were represented at the hearing and had the opportunity to make relevant submissions and to respond to the submissions of the other party pursuant to the Rules of Procedure.

I confirmed the parties were in receipt of the other parties' hearing materials and evidence and I admitted their materials into evidence.

Shortly after the hearing commenced, I determined that a mutual agreement may be feasible and I facilitated an agreement between the parties with respect to the ending of the tenancy.

The tenant's monetary claims were severed from this Application for Dispute Resolution and dismissed with leave to reapply.

Issue(s) to be Decided

What are the terms of the mutual agreement?

Background and Evidence

Under an oral tenancy agreement, the tenancy started on August 15, 2019. The tenants are required to pay rent of \$1400.00 on the first day of every month and paid a

security deposit of \$700.00. The tenants rent a suite in a house that the landlord also occupies.

The parties agreed to the following during the hearing:

1. The 1 Month Notice to End Tenancy for Cause is withdrawn by mutual consent.
2. The tenancy shall end pursuant to the 2 Month Notice to End tenancy for Landlord's Use of Property with a stated effective date of December 1, 2020 and the landlord shall be provided an Order of Possession with an effective date of December 1, 2020.
3. The tenants are entitled to the compensation provisions of section 51 of the Act since their tenancy is ending pursuant to a 2 Month Notice.
4. The tenants remain entitled to end the tenancy early, in accordance with section 50 of the Act, as their tenancy is ending pursuant to a 2 Month Notice.
5. For the remainder of the tenancy, the landlord shall not make repairs to the rental unit unless they are for emergency repairs. The tenants shall notify the landlord if they discover an emergency repair is needed.
6. The landlord shall not terminate any utilities to be provided to the tenants for the duration of the tenancy, including but not limited to: hydro, internet or water.
7. The tenants shall be provided access to their possessions that are in a locked storage area by the landlord upon receiving a request for access by way of email.
8. Communications posted to the tenant's door shall be limited to those necessary to meeting obligations under the Act, regulations or tenancy agreement. More preferable methods of communications with the tenants is by way of phone call and email.

The tenant's requested recovery of the \$100.00 filing fee paid for their Application for Dispute Resolution. I informed the parties that I would make a decision with respect to that request. I heard from the tenants the 1 Month Notice was slid under the door and they were provided only the first two pages. The landlord acknowledged the 1 Month Notice was slid under the door but the landlord claimed that she provided all four pages of the 1 Month Notice to them. I asked the landlord if she had the 1 Month Notice in front of her and she stated she did not.

Analysis

Pursuant to section 63 of the Act, I have the authority to assist parties in reaching a settlement agreement during the hearing and to record the agreement in the form of a decision or order.

I have accepted and recorded the mutual agreement reached by the parties during this hearing and I make the term(s) an Order to be binding upon both parties.

In recognition of the mutual agreement, I provide the landlord with an Order of Possession effective at 1:00 p.m. on December 1, 2020.

As for the filing fee, I find I am satisfied the landlord failed to serve all three pages of the 1 Month Notice to the tenants in a manner that complies with the Act and that failure gave the tenant's basis to seek cancellation of the 1 Month Notice. Sliding documents under a door is not a permissible method to serve a document under section 88 of the Act. Further, a 1 Month Notice is only three pages; whereas, a 2 Month Notice is four pages and I am of the view the landlord was describing service of the 2 Month Notice when she testified that she served all four pages. The tenants submitted the two pages of the 1 Month Notice and the four pages of the 2 Month Notice they had received as evidence for this proceeding. The landlord did not submit any pages of any notice to end tenancy in the approved form as evidence for this proceeding. As such, I found the tenant's submission that they only received two pages of the 1 Month Notice to be more likely. Therefore, I award the tenants recovery of the \$100.00 filing fee.

Since the tenants are entitled to withhold rent for November 2020 as the compensation they are entitled to receive for receiving a 2 Month Notice, I provide the tenants with a Monetary Order in the amount of \$100.00 to recover the filing fee from the landlord.

Conclusion

The parties reached a mutual agreement in resolution of this Application for Dispute Resolution with the exception of the tenant's monetary claim which was severed and dismissed with leave to reapply.

In recognition of the mutual agreement, the landlord is provided an Order of Possession effective on December 1, 2020.

The tenants are awarded recovery of the filing fee and I provide the tenants with a Monetary Order in the amount of \$100.00.

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: October 29, 2020

Residential Tenancy Branch