



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, FFT

Introduction

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

- cancellation of the One Month Notice to End Tenancy for Cause (the "One Month Notice"), pursuant to section 47; and
- authorization to recover the filing fee for this application from the landlord, pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony and to make submissions. The parties acknowledged receipt of evidence submitted by the other. 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

Should the One Month Notice to End Tenancy be cancelled? If not, is the landlord entitled to an order of possession?

Is the tenant entitled to the recovery of the filing fee?

Background and Evidence

The landlord gave the following testimony. The landlord testified that the tenancy began on April 15, 2017 with the current monthly rent of \$1920.00 due on the first of the month. The landlord issued a One Month Notice to End Tenancy for Cause on August 13, 2020 with an effective date of September 30, 2020 for the following reason:

Landlord's notice: cause

47 (1) *A landlord may end a tenancy by giving notice to end the tenancy if one or more of the following applies:*

(h) the tenant

(i) has failed to comply with a material term, and

(ii) has not corrected the situation within a reasonable time after the landlord gives written notice to do so;

The landlord testified that the tenant and another family rented the unit from the outset of the tenancy. The landlord testified that the subject tenant told the other tenants that they were being evicted by the landlord and that everyone in the home had to move out by July 15, 2020, which was false. The landlord testified that he had not issued any notices to end the tenancy. The landlord testified that the subject tenant then sent him a text message advising that her foster son and children were going to move in. The landlord testified that he did not agree to this as the tenant did not request in writing to do this and that he was concerned that she was subletting the unit to her family.

The landlord testified that the tenant moved her foster son in anyways. The landlord testified that when he confronted the tenant about this, she changed her story and stated he was just a guest and not living in the home. The landlord testified that the foster son has been there since he issued the notice. The landlord testified that he seeks an order of possession and wants the tenancy to end.

The tenant gave the following testimony. The tenant testified that she was just trying to help out her foster son as he was having a hard time finding a home. The tenant testified that he only stays on weekends and stays at friends' places or his girlfriend during the week.

Analysis

When a landlord issues a notice pursuant to section 47 of the *Act*, they bear the responsibility to provide sufficient evidence to support the issuance of the Notice. The landlord provided a tenancy agreement and addendum reflecting that if a family member was permanently moving into the home, the tenant must make a written request to the landlord to have someone move in. The tenant did not dispute that she did not make a written request. The tenant also did not dispute that she didn't have the landlord's permission. The landlord gave the tenant written warning of this breach on August 5, 2020 and advised the tenant to be in contact with him by August 12, 2020 to

resolve the matter. When the landlord approached the tenant about this, she advised him "I'll see you in court". The tenant gave several versions of why her foster son was moving into the house. The tenant contradicted herself several times as to the reason and length of time her foster son was to be in the home. In addition, the tenant did not dispute that she had manipulated her previous co-tenants to move out and to make way for her foster son. Based on the totality of the evidence before me, and on a balance of probabilities, I am satisfied that the tenant has breached a material term of the tenancy and did not correct it within a reasonable time after receiving written notice of it, accordingly; I find that the tenancy must end, and the tenants application is dismissed in its entirety without leave to reapply.

When a tenant's application to cancel a notice to end tenancy is dismissed and the notice complies with section 52 of the *Act*, section 55 of the *Act* requires that I grant an order of possession to a landlord. I have examined the One Month Notice and find it complies with section 52 of the *Act*. Therefore, I grant the landlord an order of possession pursuant to section 55 of the *Act*, which will be effective two (2) days after service on the tenant.

Conclusion

The One Month Notice to End Tenancy for Cause dated August 13, 2020 with an effective date of September 30, 2020 is confirmed, it is of full effect and force. The tenancy is terminated. The landlord is granted an order of possession. The tenant's 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: November 19, 2020

Residential Tenancy Branch