



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:

- 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 applicant/tenant did not attend this hearing, although I left the teleconference hearing connection open until 11:15 a.m. to enable the tenant to call into this teleconference hearing scheduled for 11:00 a.m. 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.

The landlord attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The landlord acknowledged being served with the tenants Application for Dispute Resolution Proceedings Package and stated she had no issues with timely service of documents.

Issue(s) to be Decided

Should the tenancy be ended pursuant to the One Month Notice To End Tenancy for Cause?

Background and Evidence

The landlord testified that she believes the tenant moved out. The landlord spoke to the tenant's neighbours who advised her that they saw moving trucks taking away the tenant's possessions. The landlord drove by the rental unit yesterday and it appears empty although the tenant has not answered her calls to confirm this is the case.

The landlord testified that on October 30, 2020, the landlord spoke to the tenant and advised him she is withdrawing the Notice. The landlord testified that the tenant consented to her withdrawing the Notice.

On the same day, the landlord served the tenant with a Two Month's Notice to End Tenancy for Landlord's Use. The effective date on that notice is December 31, 2020 and the landlord testified that she did not collect rent for the month of December because she served the tenant with the Two Month's Notice to End Tenancy for Landlord's Use.

Analysis

Residential Tenancy Branch Policy Guideline PG-11 [Amendment and Withdrawal of a Notice to End Tenancy] states at part C:

C. WITHDRAWAL OF NOTICE TO END TENANCY

- *A landlord or tenant cannot unilaterally withdraw a notice to end tenancy.*
- *A notice to end tenancy may be withdrawn prior to its effective date only with the consent of the landlord or tenant to whom it is given.*
- *A notice to end tenancy can be waived only with the express or implied consent of the landlord or tenant*
- *It is recommended that withdrawal of a notice to end tenancy be documented in writing and signed by both the landlord and the tenant.*

Based on the undisputed testimony of the landlord, I am satisfied the tenant consented to the landlord withdrawing the One Month Notice To End Tenancy for Cause. As such, the tenant's application to dispute the Notice is dismissed without leave to reapply.

The landlord testified that she believes the tenant has vacated the rental unit. As such is not necessary for me to grant the landlord an order of possession.

The tenant is not entitled to recovery of the \$100.00 filing fee for the cost of this application.

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: December 21, 2020

Residential Tenancy Branch