



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, OLC

Introduction

This hearing was scheduled to deal with a tenant's application for cancellation of a One Month Notice to End Tenancy for Cause ("1 Month Notice") and orders for compliance.

The landlord and his property manager appeared for the hearing. The tenant was represented by an agent.

I noted that I was not provided any written authorization indicating the tenant had authorized an agent to represent her. The person appearing on behalf of the tenant stated the tenant has disabilities including limited mental capacity and cannot comprehend paperwork so she filed the Application for Dispute Resolution on behalf of the tenant. The person appearing on behalf of the tenant stated the tenant was currently bedridden and was not answering the telephone. The landlord stated that the tenant appears to have deficiencies in executive function and mental capacity and that the 1 Month Notice had been served upon the tenant and the person appearing at the hearing on behalf of the tenant. The landlord did not have any objection to the tenant being represented for the hearing and was of the view it was likely in the tenant's best interest. In these circumstances, the hearing continued on the premise the person appearing on behalf of the tenant was authorized to act as the tenant's agent and representing the tenant's best interests.

The tenant's agent testified the tenant's proceeding package was sent to the landlord via registered mail. The landlord confirmed receipt of the tenant's proceeding package.

The landlord's evidence was given to the tenant and her home care worker on September 21, 2021 according to the landlord and the property manager. The tenant's agent stated she did not receive a copy of the landlord's evidence package from the

tenant or the home care worker; however, I was satisfied the landlord served the tenant with his evidence and I admitted the evidence.

I proceeded to hear the party's respective positions concerning the 1 Month Notice. During the hearing I was able to facilitate a mutual agreement. I have recorded the mutual agreement by way of this decision and the order that accompanies it.

There was insufficient hearing time to deal with the other remedy sought by the tenant [orders for compliance] and that remedy is dismissed with leave to reapply.

Issue(s) to be Decided

What are the terms of the mutual agreement?

Background and Evidence

The landlord and the tenant's agent mutually agreed upon the following terms during the hearing with a view to bringing the tenancy to an orderly end and find alternative housing for the tenant:

1. The tenancy shall end no later November 30, 2021 and the landlord is provided an Order of Possession reflecting this effective date.
2. The tenancy may be ended earlier than November 30, 2021 by the tenant, or her agent, by giving the landlord a notice to end tenancy.
3. During the remainder of the tenancy, the risk of fire is of utmost concern. The tenant must not do anything to increase the risk of fire, including smoking inside the rental unit. Further, if the tenant smokes outside on the residential property the tenant must ensure all cigarette ashes and butts are disposed of in the appropriate non-combustible container.
4. Should the tenant's actions, or neglect, or that of other persons she permits on the property put the rental unit, residential property or other occupants of the property in urgent and serious danger during the remainder of the tenancy the landlord retains the right to make an application seeking an emergency end of tenancy under section 56 of the Act.
5. The tenant's agent undertakes to communicate the above terms and requirements to the tenant and/or the tenant's care workers. The landlord will accept a notice to end tenancy given by the tenant or the tenant's if one is given and the landlord may contact the tenant's agent concerning tenancy related matters during the remainder of this tenancy.

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 landlord and the tenant's agent during this hearing and I make the term(s) an Order to be binding upon both parties.

In keeping with the mutual agreement, I provide the landlord with an Order of Possession effective at 1:00 p.m. on November 30, 2021.

Conclusion

The parties, and/or their agents, reached a mutual agreement in resolution of disputed notice to end tenancy. In recognition of the mutual agreement, the landlord is provided an Order of Possession effective at 1:00 p.m. on November 30, 2021.

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 28, 2021

Residential Tenancy Branch