



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, FFT

Introduction

This hearing was convened by way of conference call concerning an application made by the tenant seeking an order cancelling a notice to end the tenancy for cause and to recover the filing fee from the landlord for the cost of the application.

The landlord attended the hearing and gave affirmed testimony. However, the line remained open while the telephone system was monitored for 10 minutes prior to hearing any testimony and no one for the tenant joined the call. The landlord was present, prepared to respond to the tenant's application, and in the absence of the tenant, I dismiss the tenant's application without leave to reapply.

The *Residential Tenancy Act* specifies that where I dismiss a tenant's application to cancel a notice to end a tenancy given by a landlord, I must grant an Order of Possession in favour of the landlord, so long as the Notice given is in the approved form. Further, case law suggests that any Notice given to a tenant ending a tenancy must be given in good faith.

Issue(s) to be Decided

Has the landlord established that the One Month Notice to End Tenancy for Cause was given in accordance with the *Residential Tenancy Act* and in good faith?

Background and Evidence

The landlord testified that this month-to-month tenancy began on December 1, 2013 and the tenant still resides in the rental unit. Rent in the amount of \$775.00 was originally payable on the 1st day of each month, which has been increased over time

and is now \$850.00 per month, and there are no rental arrears. At the outset of the tenancy the landlord collected a security deposit from the tenant in the amount of \$387.50 which is still held in trust by the landlord, and no pet damage deposit was collected. The rental unit is a basement suite, and the upper level of the rental home is also tenanted. A copy of the tenancy agreement has been provided as evidence for this hearing by the tenant.

The landlord further testified that on August 26, 2021 the tenant was served with a One Month Notice to End Tenancy for Cause by registered mail. A copy of the Notice has been provided by both parties for this hearing. It is dated August 26, 2021 and contains an effective date of vacancy of September 30, 2021. The reasons for issuing it state:

- Tenant or a person permitted on the property by the tenant has:
 - significantly interfered with or unreasonably disturbed another occupant or the landlord;
 - seriously jeopardized the health or safety or lawful right of another occupant or the landlord.

The landlord testified that all tenants residing in the upper level of the rental home over the years have complained about the tenant shouting, swearing and outbursts of anger, and all tenants residing in the upper level of the rental home have suffered stress enough to cause them to move out. The last tenant in the upper level was also unreasonably disturbed, who moved out after 4 months of his tenancy as a result of the tenant's unreasonable outbursts and disturbances.

Analysis

I have reviewed the One Month Notice to End Tenancy for Cause and I find that it is in the approved form and contains information required by the *Act*. I am also satisfied that the landlord has established the reasons for issuing the Notice.

Having dismissed the tenant's application, I grant an Order of Possession in favour of the landlord. Since the effective date of vacancy has passed, I grant the Order of Possession effective on 2 days notice to the tenant.

Conclusion

For the reasons set out above, the tenant's application is hereby dismissed in its entirety without leave to reapply.

I hereby grant an Order of Possession in favour of the landlord effective on 2 days notice to the tenant.

This order is final and binding and may be enforced.

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: January 17, 2022

Residential Tenancy Branch