



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL-MT, CNC, FFT
OPR, MNRL, FFL

Introduction

This hearing was scheduled to convene at 9:30 a.m. on March 17, 2022 by way of conference call concerning applications made by the tenants and by the landlord which have been joined to be heard together.

The tenants have applied for more time than prescribed to dispute a notice to end the tenancy; an order cancelling a notice to end the tenancy for landlord's use of property; 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 has applied as against one of the tenants for an Order of Possession and a monetary order for unpaid rent or utilities and to recover the filing fee from the tenant.

The landlord attended the hearing, gave affirmed testimony and provided evidentiary material in advance of the hearing. However, the line remained open while the telephone system was monitored for 10 minutes prior to hearing any testimony, and no one for the tenants joined the call.

The landlord testified that the tenant named in the landlord's application was served with the landlord's application, evidence and notice of this hearing by registered mail on February 15, 2022 and has provided a Canada Post cash register receipt bearing that date as well as a Registered Domestic Customer Receipt, and I am satisfied that the tenant (AJ) has been served in accordance with the *Residential Tenancy Act*.

Since the tenants have not joined the call, I dismiss the tenants' application in its entirety without leave to reapply.

All evidence of the landlord has been reviewed and is considered in this Decision.

Issue(s) to be Decided

The issues remaining to be decided are:

- Has the landlord established that the notices to end the tenancy were issued in accordance with the *Residential Tenancy Act*?
- Has the landlord established a monetary claim as against the tenant for unpaid rent?

Background and Evidence

The landlord testified that the landlord purchased the rental property and took possession of it on November 5, 2021 and the tenants were already living there. There is no written tenancy agreement because the prior owner only had a verbal agreement with the tenants, and both tenants named in the tenants' application still reside in the rental unit. Rent in the amount of \$650.00 per month is payable by one tenant (AJ) on the 1st day of each month, and by the other tenant (DW) \$550.00 per month. The tenant (DW) pays a reduced amount because the landlord purchased the property from his sister. No security deposit or pet damage deposit were paid by either tenant. The rental unit is a garden level suite, and the landlord resides in the upper level of the house.

The landlord is currently owed \$2,600.00 for rent by the tenant (AJ). Several notices to end the tenancy have been issued, and the landlord testified that the tenant (DW) only pays rent after the landlord issues a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities. A number of notices to end the tenancy have been provided by the landlord for this hearing.

The first is a Two Month Notice to End Tenancy for Landlord's Use of Property dated November 7, 2021 and contains an effective date of vacancy of January 31, 2022. It is addressed to the tenant (DW) and was served on November 11, 2021 by posting it to the door of the rental unit. The reason for issuing it states: The rental unit will be occupied by the landlord or the landlord's close family member (parent, spouse or child; or the parent or child of that individual's spouse), specifying the landlord or the landlord's spouse.

On November 21, 2021 the landlord served the tenants with a One Month Notice to End Tenancy for Cause by posting it to the door of the rental unit, and a copy has been provided for this hearing. It is addressed to a tenant identified as JE and is dated November 21, 2021 and contains an effective date of vacancy of December 31, 2021. The reason for issuing it states: Breach of a material term of the tenancy agreement

that was not corrected within a reasonable time after written notice to do so. The landlord testified that when the landlord took possession of the rental unit, the rental home smelled badly of cannabis smoke, and asked the tenants on November 7, 2021 to stop smoking it in the house. For the first couple of weeks the landlord was at the rental home frequently, and was in contact with both realtors who confirmed with the seller that the seller didn't allow the tenants to smoke it in the house. When the landlord was there on November 20, 2021, it smelled horrible of weed.

Another One Month Notice to End Tenancy for Cause was served on February 5, 2022 by posting it to the door of the rental unit. It is addressed to the tenant (DW) and is dated February 4, 2022 and contains an effective date of vacancy of March 31, 2022. The reason for issuing it states: Tenant is repeatedly late paying rent. The landlord testified that in December, 2021 the landlord waited until the 2nd of the month and texted the tenants asking for the rent. One tenant (DW) said that rent was not due and the landlord served him with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, but on December 4, 2021 he paid the rent. Other late payments were on January 4, February 4 and March 6, 2022.

Currently, the tenant (AJ) owes \$2,600.00 for 4 months, being December, 2021 to March, 2022. The other tenant (DW) has paid rent to the end of March.

Analysis

Firstly, the *Residential Tenancy Act* states 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. In this case, the tenants have disputed a One Month Notice to End Tenancy For Cause dated November 21, 2021. I have reviewed that Notice, and it is addressed to one of the tenants only (DW), however, where a tenancy ends for 1 tenant, it ends for all tenants, co-tenants and occupants. I find that it is in the approved form. Having dismissed the tenants' 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 tenants. Therefore, it is not necessary to deal with all Notices given by the landlord.

With respect to the landlord's claim for unpaid rent, I refer to Residential Tenancy Policy Guideline 13 – Rights and Responsibilities of Co-tenants, which states, in part:

Co-tenants are jointly and severally responsible for payment of rent when it is due. Example: If John and Susan sign a single tenancy agreement together as co-tenants to pay \$1800 dollars in rent per month, then John and Susan are both equally responsible to ensure that this amount is paid each month. If Susan is unable to pay her portion of the rent, John must pay the full amount. If he were to only pay his half of the rent to the landlord, the landlord could serve a 10 Day Notice to End Tenancy for Unpaid Rent and Utilities and evict both John and Susan because the full amount of rent was not paid. The onus is on the tenants to ensure that the full amount of rent is paid when due.

I accept the undisputed testimony of the landlord that the sum of \$2,600.00 is outstanding for rent. Therefore, I grant a monetary order in favour of the landlord as against the tenants in the amount of \$2,600.00. Since the landlord has been successful with the application, the landlord is also entitled to recovery of the \$100.00 filing fee.

Conclusion

For the reasons set out above, the tenants' 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 tenants.

I hereby grant a monetary order in favour of the landlord as against the tenants pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$2,700.00.

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: March 17, 2022

Residential Tenancy Branch