



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding LE GERS PROPERTIES INC
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC, MNDL-S, FFL

Introduction

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

- an order of possession for cause, pursuant to section 55;
- a monetary order for damage to the unit, site or property pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The tenant did not attend this hearing, which lasted approximately 10 minutes. The landlord attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord testified that the tenant was served with the landlord's application for dispute resolution hearing package and evidence on January 14, 2022, by way of registered mail to the tenant's rental unit address. The landlord confirmed the Canada Post tracking number verbally during the hearing. In accordance with sections 89 and 90 of the *Act*, I find that the tenant was deemed served with the landlord's application on January 19, 2022, five days after its registered mailing.

The landlord confirmed that she served the tenant with the landlord's 1 Month Notice to End Tenancy for Cause, dated November 9, 2021 ("1 Month Notice"), by registered mail on the same date. In accordance with section 88 and 90 of the *Act*, I find that the tenant was deemed served with the landlord's 1 Month Notice on November 14, 2021.

Issues to be Decided

Is the landlord entitled to an Order of Possession for cause?

Is the landlord entitled to a monetary order?

Is the landlord entitled to recover the filing fee for this application?

Background and Evidence

While I have turned my mind to the landlord's documentary evidence and the testimony of the landlord, not all details of the respective submissions and arguments are reproduced here. The relevant and important aspects of the landlord's claims and my findings are set out below.

The landlord testified regarding the following facts. This tenancy began on April 1, 2013. Monthly rent in the amount of \$700.00 is payable on the first day of each month. A security deposit of \$297.50 was paid by the tenant and the landlord continues to retain this deposit. A written tenancy agreement was signed by both parties. The tenant continues to reside in the rental unit.

The landlord seeks an order of possession based on the 1 Month Notice. She confirmed that the effective date on the notice is December 31, 2021. She stated that the notice was issued for the following three reasons:

- *Tenant or a person permitted on the property by the tenant has:*
- *has caused or is likely to cause damage to the landlord's property,*
- *the tenant does not repair damage to the rental unit or other residential property*
- *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 regarding the following facts. The landlord testified that the tenant caused severe damage to the unit door, lock, frame, and door jamb. The landlord testified that she's not sure when it occurred, but the tenant has refused to pay for it. The landlord testified that the tenant advised her that the RCMP kicked down the door as a result of an emergency medical call she made to them. The landlord testified that the tenant should pay for the damage and that the tenancy should end.

Analysis

When a landlord issues a notice under section 47 of the Act, they bear the responsibility to provide sufficient evidence, on a balance of probabilities to support the issuance of the notice. In the case before me, I find that the landlord failed to meet the above standards.

I note that the landlord did not provide specific dates or specific information regarding the damage or any firsthand or witness testimony to support their position. The landlord did not indicate which material term of the tenancy agreement was breached, how that term was “material” to the tenancy agreement, or when written notice was given to the tenant of this breach. I find that the landlord did not provide sufficient evidence of this claim during her testimony at the hearing.

On a balance of probabilities and for the reasons stated above, the landlord’s application for an order of possession for cause is dismissed without leave to reapply. The landlord’s 1 Month Notice, dated November 9, 2021, is cancelled and of no force or effect. This tenancy continues until it is ended in accordance with the *Act*.

The landlord did not provide sufficient evidence to show any costs incurred and therefore I dismiss their monetary claim. As the landlord was unsuccessful in this application, I find that she is not entitled to recover the \$100.00 filing fee from the tenant.

Conclusion

The landlord’s entire application is dismissed without leave to reapply.

The landlord’s 1 Month Notice, dated November 9, 2021, is cancelled and of no force or effect. This tenancy continues until it is ended in accordance with the *Act*.

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: April 04, 2022

Residential Tenancy Branch