



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes CNC

Introduction

This hearing was convened to deal with an application by the tenant for an order to cancel a Notice to End Tenancy for cause. The tenant appeared, as well as two agents for the landlord and all parties gave affirmed evidence at this hearing.

Issues(s) to be Decided

Should the Notice to End Tenancy be cancelled?

Background and Evidence

A month-to-month tenancy agreement was entered into by the parties on July 8, 2008, along with the tenant's then boyfriend, who vacated the premises on December 31, 2009. The tenancy agreement states that the Economic Rent for the unit is \$1,109.00 per month, due on the 1st day of each month. The tenant is receiving a subsidy for housing, and pays \$235.00 per month. A security deposit of \$554.50 was paid at the beginning of the tenancy.

The tenant is a student, attending school full time at Sprott Shaw College to complete a Resident Care Attendant course. She has 2 children who reside with her.

The landlords testified that the Notice to End Tenancy for cause was issued for repeated late rent payments. They testified that over a 12 month period in 2009, 5 notices for unpaid rent were issued to the tenant, and 1 the year prior.

The landlords provided copies of the following material:

- A warning letter dated July 14, 2008 addressed to the tenant for stating that March, June and July 2008 rent had been late;
- A 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated January 19, 2009 for an outstanding amount of \$471.00, which shows "Cancelled - \$427 paid by MO Jan 23/09" on the Record of Delivery;
- A letter dated February 17, 2009 stating a \$64.00 balance owing for unpaid late fees;
- A warning letter dated February 24, 2009 stating that 4 late rent payments had been received over a 12 month period;
- A letter dated August 21, 2009 stating that \$91.00 was outstanding for unpaid late fees;
- A 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated September 9, 2009 for \$143.00, which shows "Cancelled Sept 21/09 – Paid \$140.00" on the Record of Delivery;
- A letter from the landlord to the tenants dated September 21, 2009 stating that rent had been late for the months of October and November, 2008, as well as January, February, March and September 2009, and that a 30 day Notice to End Tenancy would be issued if another rent payment was received late. That letter is attached to a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated October 5, 2009 for an outstanding amount of \$135.00, which shows "Cancelled – Paid \$100 by MO Oct 14/09" on the Record of Delivery;
- A 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated December 4, 2009 for \$85.00, which shows "Cancelled – Paid \$60.00 by MO Dec 18/09 – paying remainder by 23rd;

- A 1 Month Notice to End Tenancy for Cause issued December 23, 2009, with a move-out date of January 31, 2010, which was amended to extend the move-out date to February 28, 2010.

The landlords testified that on December 28, 2009 the applicant was served personally with the 1 Month Notice to End Tenancy for Cause, and the parties agree that it was extended on January 7, 2010 to February 28, 2010 to give the tenant an opportunity to find adequate housing. The rent for the month of February, 2010 was paid on January 20, 2010, however the rent for January, 2010 was also late. The tenant testified that the January rent was late because of an error in processing her Student Loan Application, and now that it has been processed, her payments will not be late in the future.

The tenant testified that her boyfriend had lied to her on many occasions telling her that he had paid the rent on time. He also withheld information by not telling her about the Notices to End Tenancy that were served upon him while she was at school, nor the warning letters. She agreed that she had been personally served with the 1 Month Notice to End Tenancy for Cause on December 28, 2009.

Analysis

I find that the 1 Month Notice to End Tenancy for Cause was served personally on the tenant on December 28, 2009. I also find that the previous 10 Day Notices to End Tenancy were properly served, even though I accept the evidence that the tenant's boyfriend did not tell her about them. Serving either tenant is sufficient under the *Act*, and the boyfriend was a tenant at the time of service.

Conclusion

Given the above, I find that the tenant's application to request that the Notice be cancelled is not supported under the *Act* by the facts and must therefore be dismissed.

I therefore dismiss the tenant's application and the Notice to End Tenancy, as amended, remains in full force and effect.

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: February 04, 2010.

Dispute Resolution Officer