



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, MNDC, OLC, FF

Introduction

This hearing dealt with a tenant's application to cancel a 1 Month Notice to End Tenancy for Cause; for monetary compensation for damage or loss under the Act, regulations or tenancy agreement; and, Orders for compliance. Both parties appeared or were represented at the hearing and were provided the opportunity to make relevant submissions, in writing and orally pursuant to the Rules of Procedure, and to respond to the submissions of the other party.

Preliminary and Procedural Matters

The landlord stated that he had not received the tenant's Application for Dispute Resolution or evidence but understood the tenant was seeking to dispute the 1 Month Notice. The tenant provided evidence that she sent the hearing package to the landlord via registered mail sent July 18, 2013 using the service address provided to her by the landlord on the tenancy agreement and the Notice to End Tenancy. The landlord's service address was the same as the rental unit address. Both parties acknowledged that the landlord did not provide the tenant with any other address for her to serve documents upon him. Nor, did the landlord have any discussion or provide the tenant with any instructions about receiving mail for him at the rental unit. As a result, the tenant has the registered mail sent to the landlord at the rental unit. I was satisfied the tenant served the landlord in a manner that complies with section 89 the Act and I found the landlord served. The fact the landlord did not receive the hearing documents was due entirely to his actions and did not warrant an adjournment of these proceedings.

After discussions with the landlord concerning service of documents upon him, the landlord acknowledged the difficulty in serving him at the rental unit address. The landlord provided an alternative service address during the hearing which I have recorded on the cover page of this decision and ordered both parties to use for purposes of serving documents upon the landlord with respect to this tenancy.

The landlord had supplied evidence to the Residential Tenancy Branch in support of his position concerning the 1 Month Notice to End Tenancy; however, the tenant stated she had not received the landlord's evidence. The landlord stated that he placed his evidence package in the tenant's mailbox on August 12, 2013. The tenant acknowledged that she has not checked her mail since before August 12, 2013. I found the landlord had sufficiently served the tenant with his evidence package and her decision not to check her mail is not a basis to delay this proceeding.

In recognition that both parties did not have written submissions and evidence of the other party in front of them due to their actions concerning service, I informed the parties that each party would be responsible for providing their respective position by oral testimony although I would refer to relevant documents provided to the Residential Tenancy Branch as needed.

After both parties had an opportunity to be heard and I informed the parties of certain requirements under the Act, the parties reached a mutual agreement to resolve this dispute. I have recorded the mutual agreement by way of this decision and the Order of Possession that accompanies it.

Issue(s) to be Decided

What are the terms of the mutual agreement?

Background and Evidence

During the hearing, the parties mutually agreed to the following terms and conditions in satisfaction of this dispute:

Comment [c1]:

1. The tenancy shall end by mutual agreement at 1:00 p.m. on September 30, 2013.
2. The tenant is not required to pay rent and is authorized to withhold rent for the month of September 2013.
3. The landlord shall not access the mailbox for the rental unit during the remainder of the tenancy.
4. The landlord must provide the tenant with a service address other than the rental unit address. The service address was provided and is recorded on the cover page of this decision.,
5. The landlord must not enter, or attempt to enter the rental unit unless the landlord has given the tenant a written 24 hour Notice of Entry in a manner that complies

with section 29 of the Act. The landlord must use one of the permissible methods of service as provided by section 88 of the Act and allow for time for the tenant to receive the Notice of Entry as provided under section 90 of the Act.

6. The parties shall meet at the rental unit at 3:00 p.m. on September 30, 2013 for purpose of participating in the move-out inspection together and for the tenant return possession of the rental unit to the landlord.
7. The security deposit remains in trust to be administered in accordance with section 38 of the Act.
8. The tenant shall use the service address provided by the landlord during the hearing to serve the landlord documents in the future, if necessary, and the landlord is responsible for checking for documents at that location.

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 a settlement agreement in the form of a decision or order.

I have accepted and recorded the mutual agreement reached by the parties during this hearing and make the terms an Order to be binding upon both parties. In recognition of the mutual agreement, I have provided the landlord with an Order of Possession effective September 30, 2013. I make no monetary order to the tenant as the tenant has been compensated by way of "free" rent for the month of September 2013.

I have attached sections 29, 88 and 90 of the Act to this decision for the parties reference. It remains the responsibility of each party to determine and become familiar with other sections of the Act as required.

Conclusion

The parties resolved their dispute by way of a mutual agreement reached during the hearing. I have recorded the terms of the mutual agreement by way of this decision and I have provided an Order of Possession to the landlord with an effective date of September 30, 2013 in recognition of the mutual agreement.

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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: August 21, 2013

Residential Tenancy Branch

