



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

This is a request to cancel a Notice to End Tenancy that was given for repeated late rent payments.

A substantial amount of documentary evidence and written arguments has been submitted by the parties prior to the hearing.

Further on March 18, 2015 the Residential Tenancy Branch received an email/fax from the applicant requesting an adjournment of the hearing stating that she is on a spring holiday with her children and will be out of the country until 28 March 2015; however the applicant managed to phone into the hearing and participate from Texas, and therefore an adjournment was not required.

I have given the parties the opportunity to present all relevant evidence, and to give oral testimony, and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

Issue(s) to be Decided

The issue to be decided is whether or not to cancel the Notice to End Tenancy.

Background and Evidence

This tenancy began on December 1, 2013 with a monthly rent of \$1100.00, payable on the first of each month.

The landlord testified that:

- The rent has been late, or she has received an NSF cheque thereby making the rent late on every month except for approximately 5 months of the tenancy.
- She has attempted to work with the tenant and at times things seem to be getting better and then the tenant reverts to paying late or issuing NSF cheques.
- Therefore since the issue does not appear to be getting a better she has decided to end this tenancy.

The tenant testified that:

- She admits that rent has been late, or she has given NSF cheques on numerous occasions; however she has been going through a very difficult time, and it made it very hard for her to pay the rent on time.
- She is willing to move out of the rental unit, however she is asking for an extension to June 22, 2015 to allow her children to finish school.
- She is willing to pay the full rent for the months of April, 2015, May 2015, and June 2015, as soon as she gets back from her vacation, if the landlord will allow her to stay.

In response to the tenant's testimony the landlord testified that:

- She is not willing to grant an extension for the tenant to stay in the rental unit as she finds the situation far too stressful.
- She is requesting an Order of Possession for the end of March 2015.

Analysis

Section 47(1)(b) of the Residential Tenancy Act states:

47 (1) A landlord may end a tenancy by giving notice to end the tenancy if one or more of the following applies:

(b) the tenant is repeatedly late paying rent;

Further, Residential Tenancy Policy Guideline #38 states:

The *Residential Tenancy Act*¹ and the *Manufactured Home Park Tenancy Act*² both provide that a landlord may end a tenancy where the tenant is repeatedly late paying rent.

Three late payments are the minimum number sufficient to justify a notice under these provisions.

It does not matter whether the late payments were consecutive or whether one or more rent payments have been made on time between the late payments.

In this case the tenant has admitted that the rent has been late on numerous occasions, well in excess of the minimum number of three, and therefore the landlord does have the right to end this tenancy, and I will not set the Notice to End Tenancy aside.

Conclusion

The tenant's application to cancel the Notice to End Tenancy is dismissed, and at the request of the landlord I have issued an Order of Possession for 1:00 PM on March 31, 2015.

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 23, 2015

Residential Tenancy Branch

