



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

ORIGINAL AND REVIEW DECISION

Dispute Codes CNR, CNC, LAT, MT, OPR, MNR

Introduction

This hearing was convened in response to an application by the Tenant and was also convened as a review hearing in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”).

The Tenant applied for:

1. An Order cancelling a notice to end tenancy for unpaid rent - Section 46;
2. An Order cancelling a notice to end tenancy for cause - Section 47;
3. An Order authorizing the Tenants to change the locks on the unit – Section 70; and
4. More time to make the application to cancel the notices to end tenancy - Section 66.

The Landlord applied for:

1. An Order of Possession - Section 55; and
2. A Monetary Order for unpaid rent or utilities - Section 67.

The Landlord did not attend the hearing. The Tenants were given full opportunity to be heard, to present evidence and to make submissions.

Preliminary Matters

The Tenant’s application for dispute resolution and notice of hearing was served on the Landlord in person at 8:30 p.m. on October 25, 2015. This service was witnessed by a 3rd party and video recorded. I find therefore that the Tenant has served its application in accordance with Section 89 of the Act.

It is noted that the Review Consideration Decision dated November 25, 2015 was sent to the Landlord by the Residential Tenancy Branch (the "RTB") with a notice of hearing letter included. The Tenant did not receive a copy of the Review Consideration Decision from the RTB until December 9, 2015. The Tenants believe that any copy of the Review Consideration Decision sent to the Tenant by the RTB may have been taken by the Landlord's daughter with whom the Tenants share a mail box.

Given that the Landlord was informed of today's hearing date by virtue of service of the Tenant's application and considering that the Landlord was provided a copy of the Review Consideration Decision and notice of review hearing by the RTB, I find that the Landlord has been sufficiently served as provided under section 71 of the Act. I also note that the Landlord provided evidence packages for today's hearing date indicating that the Landlord is fully aware of today's hearing date and the matters under consideration. The Landlord did not attend the hearing. As the Landlord did not attend to pursue its application I dismiss the Landlord's application and claims for unpaid rent and an order of possession. As the Landlord's application is dismissed it is unnecessary to consider the Tenant's claim to cancel the notice to end tenancy for unpaid rent. The Tenant withdrew its claim for a change of locks.

Issue(s) to be Decided

Does the Landlord have cause to end the tenancy?

Background and Evidence

The tenancy started on September 1, 2015. Rent of \$1,300.00 is payable monthly on the first day of each month. At the outset of the tenancy the Landlord collected \$650.00 as a security deposit. The Tenants received a one month notice to end tenancy for cause (the "Notice") in their mailbox on October 18, 2015 despite the date of October 6, 2015 noted on the Notice. The Tenants state that there is absolutely no basis upon which the Landlord may end the tenancy for cause.

Analysis

Where a notice to end tenancy for cause comes under dispute, the landlord has the burden to prove, on a balance of probabilities, that the tenancy should end for the reason or reasons indicated on the notice and that at least one reason must constitute sufficient cause for the notice to be valid. Given that the Landlord provided no evidence to end the tenancy for cause and considering the Tenant's evidence that no cause exists, I find that the Notice is not valid and that the Tenants are entitled to its cancellation.

Conclusion

The Landlord's application is dismissed. The Notice is cancelled and of no effect. The tenancy continues.

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: December 17, 2015

Residential Tenancy Branch

