



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, OPC, FF

Introduction

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

The Tenant applied on October 6, 2018 for:

1. An Order cancelling a notice to end tenancy - Section 46; and
2. An Order to recover the filing fee for this application - Section 72.

The Landlord applied on October 17, 2018 for:

1. An Order of Possession - Section 55; and
2. An Order to recover the filing fee for this application - Section 72.

I accept the Landlord’s evidence that the Tenant was served with the Landlord’s application for dispute resolution and notice of hearing by registered mail on October 22, 2018 in accordance with Section 89 of the Act. As the Tenant failed to attend to pursue its application I dismiss the application. The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Landlord entitled to an order of possession?

Is the Landlord entitled to recovery of the filing fee?

Background and Evidence

The tenancy, under written agreement, started on September 1, 2018. Rent of \$1,050.00 is payable on the first day of each month. At the outset of the tenancy the Landlord collected \$525.00 as a security deposit. Between September 7 and 21, 2018 the Tenant repeatedly disturbed other tenants by being drunk and passing out in common areas, attempting to enter other units, and making lots of noise. The Tenant also caused a flood to the lower unit after leaving a tap running. On September 27, 2018 the Landlord served the Tenant with a one month notice to end tenancy for cause (the "Notice"). The Notice selects two reasons for ending the tenancy and includes details for those reasons. The Landlord confirms that the one reason of illegal activity was selected in error as the Tenant has not carried out any illegal activities. The Landlord confirms that the Tenant has paid the rent for November 2018 and asks for an order of possession effective November 30, 2018. The Notice is signed and dated by the Landlord, gives the address of the rental unit, states the effective date of the notice, and is in the approved form.

Analysis

Section 47(1)(d) provides that a landlord may end a tenancy by giving notice to end the tenancy where the tenant or a person permitted on the residential property by the tenant has, inter alia, significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property, or has put the landlord's property at significant risk. Section 55(1) of the Act provides that if a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, an order of possession of the rental unit must be granted if

- (a) the landlord's notice to end tenancy complies with section 52 *[form and content of notice to end tenancy]*, and
- (b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

Based on the undisputed evidence of the Landlord I find that the Landlord has substantiated that the Tenant unreasonably disturbed other tenants. As the Notice is signed and dated by the Landlord, gives the address of the rental unit, states the effective date of the Notice, states the grounds for the Notice, and is in the approved form, I find that the Notice complies and that the Landlord is therefore entitled to an order of possession as claimed.

As the Landlord has been successful with its application I find that the Landlord is entitled to recovery of the \$100.00 filing fee and the Landlord may deduct this amount from the security deposit of \$525.00 in full satisfaction of this claim.

Conclusion

I grant an Order of Possession effective 1:00 p.m. on November 30, 2018 to the Landlord.

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: November 19, 2018

Residential Tenancy Branch