



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

DECISION AND REASONS

Dispute Codes:

MT, MNDC, OLC

Introduction

This hearing dealt with an application by the tenant pursuant to the *Residential Tenancy Act* for orders as follows:

- A monetary order pursuant to Section 67;
- An order to cancel the notice to end tenancy for cause, pursuant to Section 47
- An order to seek landlord's action to comply with the Act and tenancy agreement pursuant to section 62.

Background and Evidence

I find that the Notice to End Tenancy dated July 31, 2008 for cause was served on the Tenant on July 31, 2008 by way of personal service, with an effective date of August 31, 2008.

Both parties attended the hearing and were given full opportunity to present evidence and make submissions. On the basis of the solemnly affirmed evidence presented at the hearing a decision has been reached.

The tenant stated that on July 24, 2008, a representative of the landlord entered her rental suite without notice. She confirmed that the fire department had attended the building premises in response to a false fire alarm. The landlord submitted into

evidence a statement indicating the events of that day. At the request of the fire department, the smoke detectors in all suites were required to be inspected immediately and this inspection was conducted in every suite to ensure that all smoke detectors were in good working condition. Accordingly, a representative of the landlord knocked on the tenant's door and received no answer. She entered the suite using a pass key and noted that the smoke detector was working as indicated by the green light. She also noted as stated in her statement, that the suite was extremely cluttered and could be described as a fire hazard.

After much consideration, the landlord decided that it would be in the best interest of both the landlord and tenants, for annual inspections to be conducted. Notices were sent to all tenants advising them of the upcoming inspections. Individual notices with dates and times were posted in tenants' mailboxes two weeks in advance of the inspection and reminders were posted in the elevators and on the bulletin board.

The tenant received a notice of an annual inspection that was to take place on July 31, 2008. This date was changed to July 30, by the landlord and then changed back to July 31, at the tenant's request. However, on July 31, 2008, the tenant refused entry to the landlord by posting a note on the door stating she was unwell and unable to let the landlord in to conduct the inspection. The tenant also placed boxes behind the main entry door to prevent the landlord from entering with a pass key.

The landlord also submitted into evidence, a written statement indicating that the tenant has refused entry to the landlord on a prior occasion after having been served with adequate notice. The landlord testified that the tenant's suite has not been inspected for about two years and the clutter in the suite may pose a fire hazard.

The tenant has also made a monetary claim for \$300.00. She stated that she does some project work and was unable to complete it due to the stress of having received the eviction notice and the time that it took to put together the evidence package that she submitted with her application for dispute resolution. The tenant stated that her main source of income is from her pension and she does receive some income from art

and photography projects.

Analysis

Based on the testimony of the tenant and the landlord, I find as per section 29 (1)(b) of the *Residential Tenancy Act*, that the landlord has fulfilled her obligations by providing the tenant with at least 24 hours notice prior to entry into the suite. Also as per section 29(1) (f) the landlord has the right to enter the rental unit if an emergency exists and the entry is necessary. On July 24, 2008 there was a fire alarm and the fire department ordered the landlord to check that all smoke detectors in the rental units were in good working condition. Hence the landlord was within her rights to conduct an inspection of the smoke detector inside the rental suite, without giving the tenant 24 hours notice.

The tenant has not established a monetary claim as the notice to end tenancy did not compromise her source of income. Accordingly, the tenant's claim for a monetary order is denied.

During the hearing, the landlord agreed to set aside the notice to end tenancy on the following terms:

- The tenant allowed an inspection to be conducted inside her rental suite on Friday, September 26, 2008 at 10 am.
- The tenant agreed to allow future inspections with 24 hours notice.

The tenant indicated that she would like to continue living in the rental suite and agreed to allow an inspection on September 26, 2008 and to allow future inspections with 24 hours notice, if the notice to end tenancy would be set aside.

Conclusion

The notice to end tenancy is set aside. The tenant will allow the landlord access to the rental suite for the purpose of an annual inspection on September 26, 2008 at 10 am and will allow the landlord access for all future inspections with a minimum of 24 hours notice.

Dated September 22, 2008.