



Dispute Resolution Services

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

Decision

Dispute Codes: CNC, OLC

Introduction

This hearing dealt with the tenant's application for cancellation of a 1 month notice to end tenancy for cause, and for an order instructing the landlord to comply with the *Act*. Both parties participated in the hearing and each gave affirmed testimony.

Issues to be Decided

- Whether the tenant is entitled to cancellation of the notice to end tenancy
- Whether the tenant is entitled to an order instructing the landlord to comply with the *Act*

Background and Evidence

The month-to-month tenancy began in mid to late 2007. There is no written residential tenancy agreement. Rent in the amount of \$750.00 is payable in advance on the first day of each month. A security deposit was paid by the tenants at the start of tenancy in the amount of \$325.00.

As a result of allegations / complaints that the tenants and / or their guests have been smoking marijuana in the unit, the landlord issued a 1 month notice to end tenancy on December 1, 2008, which took the form of a short typewritten message posted on the tenants' door. The tenant denies that marijuana has been smoked in the unit and therefore seeks to have the notice cancelled.

The tenant also seeks an order instructing the landlord to comply with the *Act* where it concerns a rent increase. By way of a handwritten note dated October 3 [2008], the

landlord informed the tenants that rent would be increased by \$50.00 to \$800.00 per month effective December 1, 2008.

Further, the tenant seeks an order instructing the landlord to comply with the *Act* by providing heat to the unit as well as regular access to laundry facilities. The tenant states that prior to moving into the unit, heat and laundry facilities were advertised by the landlord as included in the rent. The steady provision of heat and regular access to laundry facilities have both recently been disrupted. In the result, the tenant claims he has incurred costs for the purchase of two heaters, in addition to costs associated with travel to a friend's home to use laundry facilities.

During the hearing the parties respectfully afforded each other an opportunity to set out their positions and exchange differing views.

Analysis

Based on the documentary evidence and testimony of the parties, I find that the landlord's notice to end tenancy was not provided in accordance with the statutory requirements. Specifically, the landlord did not use the prescribed form ("1 month notice to end tenancy for cause") and the document created by the landlord did not include all of the required information. Accordingly, I find that the landlord's notice to end tenancy is invalid. I therefore order that the notice to end tenancy be set aside, with the result that the tenancy continues with full force and effect.

Sections 41, 42 and 43 of the *Act* address, respectively, rent increases, timing and notice of rent increases, and amount of rent increases. During the hearing the landlord acknowledged that he had not previously been fully aware of these statutory provisions. In summary, the landlord's notice of rent increase was not given in the proper form, did not provide sufficient notice, and the amount of the increase exceeded the amount permitted in the Residential Tenancy Regulation. In the result, I find that the landlord's notice of rent increase is invalid. Accordingly, I order that the rent increase be set aside and, pending notice of rent increase in the prescribed form, with required notice and for

an amount within the statutory limit, I order that the rent in this unit remains unchanged at \$750.00 per month.

Pursuant to section 63 of the *Act*, the parties turned their minds to compromise and achieved a resolution of other areas of dispute. Specifically, it was agreed as follows:

- 1) that the tenant will pay to the landlord FORTHWITH rent in the amount of \$650.00 for the month of January 2009. Withholding of \$100.00 from the regular monthly rent of \$750.00 arises out of consideration of
 - i) the \$50.00 overpayment in rent for December 2008, and
 - ii) the negotiated allowance in the amount of \$50.00 for recent limited access to laundry facilities.
- 2) that the parties together will determine the exact cost incurred by the tenant for the purchase of two heaters. The landlord will reimburse the tenant for the full amount of his purchase and the tenants will continue to use the heaters, however, the landlord will assume full ownership of the heaters.

Conclusion

Further to the settlement of certain matters reached between the parties, as above, I order that the notice to end tenancy and the notice of rent increase be set aside.

DATE: January 12, 2009

Dispute Resolution Officer