



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes CNC, FF

Introduction

This matter dealt with an application by the Tenant to cancel a Notice to End Tenancy for Cause as well as to recover the filing fee for this proceeding.

Issues(s) to be Decided

1. Is the Landlord entitled to end the tenancy?

Background and Evidence

This tenancy started on May 1, 2007. On May 15, 2009, the Landlord served the Tenant with a One Month Notice to End Tenancy for Cause. The Notice alleged that the Tenant put the Landlord's property at significant risk.

The Landlord said that in April 2009, he discovered that the Tenant had installed a satellite dish and in doing so, the Tenant damaged fascia board and roofing materials. The Landlord said the roof was secured by heating or melting the tiles to the board below, however, the Tenant lifted the tile up and cut a section. The Landlord claimed that the part of the roof that was damaged was where water drained and that he was concerned about water getting under the roof in the winter and leaking into the bathroom ceiling below. The Landlord argued that this had occurred once before when a previous tenant had installed a satellite dish. Consequently, the Landlord said he gave the Tenant a breach letter and advised him to remove the satellite dish and when he refused to do so, the Landlord served the Tenant with the One Month Notice.

The Tenant said that the satellite dish was installed by a professional installer and he denied that there was any damage to the roof or fascia board. The Tenant said he offered to move the dish to a pole and the Landlord said he would look into it but instead he served the Tenant with the One Month Notice. The Tenant argued that there was already mould in a bathroom wall and plumbing. The Tenant also argued that the Landlord was harassing him by giving him rent increases, periodic inspection notices and advising Shaw cable on three occasions that he had spliced the cable connection to provide service to other tenants.

The Landlord also claimed that the Tenant put a new door and lock on a storage shed and refused to give him access to it to inspect the roof. The Tenant admitted that he put a screen door and a lock on the storage shed and had not given a copy of the key to the Landlord.

Analysis

RTB Policy Guideline #1 says in part at p. 7 as follows:

“The Tenant must obtain the consent of the Landlord prior to erecting fixtures. If a Tenant leaves a fixture on the residential property that the Landlord did not agree the Tenant could erect, and the Landlord wishes the fixture removed, the Tenant is responsible for the cost of removal.”

I find that the Tenant attached the satellite dish to the rental property without the consent of the Landlord. I also find that during the installation of the satellite dish, the roofing material was lifted and cut and as a result, there is a risk of water damage to the rental unit, however, there is insufficient evidence to conclude that there is a “serious” or imminent risk. Consequently there are insufficient grounds to support the One Month Notice and it is cancelled. However pursuant to s. 62(3) of the Act, **I order the Tenant to remove the satellite dish and to repair any damage to the fascia board and roofing materials caused when the dish was installed. If the Tenant fails to do so, within 30 days of this decision, the Landlord may apply for an Order of Possession on the grounds that the Tenant has not done required repairs of damage.**

The Landlord objected to the Tenant doing the remedial work and argued that it needed to be done by a professional roofer. The Tenant argued that he has the skills necessary to make the required repairs. Section 7(2) of the Act says that a Party who suffers damages must do whatever is reasonable to minimize his losses. In this case, I find that it is reasonable to allow the Tenant to try to mitigate his damages. If the repairs are not done properly by the Tenant, the Landlord may apply for a monetary order to recover from the Tenant the cost of having the damages professionally repaired.

Section 31(2) of the Act says “a Tenant must not change locks or other means that give access to common areas of the residential property unless the Landlord consents to the change.” I find that the Tenant added a lock to the storage shed without the Landlord’s consent and has refused him access to the shed. Consequently, **I order the Tenant to provide the Landlord with a key to the storage shed lock no later than 7 days after the date of this decision. If the Tenant fails to do so, the Landlord will be at liberty to change the lock at the Tenant’s expense.**



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I find that this is not an appropriate case to award reimbursement of the filing fee and as a result, the Tenant's application for it is dismissed.

Conclusion

The Tenant's application is allowed in part. The Notice to End Tenancy dated May 15, 2009 is cancelled and the tenancy will continue. The Tenant is ordered to comply with the Act as set out above. The Tenant's application to recover the filing fee is dismissed.

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: July 08, 2009.

Dispute Resolution Officer