



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION AND ORDERS

Dispute Codes CNR, ERP, MNDC, OLC, PSF, RR

Introduction

This hearing dealt with two Applications for Dispute Resolution filed by the Tenant. The Tenant has applied to cancel two 10 day Notices to End tenancy, for compensation or money owed under the act or tenancy agreement, for orders for the Landlord to comply with the Act, to make emergency repairs to the rental unit, provide services or facilities required by law, and to allow the Tenant to reduce rent for repairs or services and facilities agreed upon but not provided.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues(s) to be Decided

Should the Notices to End Tenancy be cancelled?

Is the Tenant entitled to the other relief sought?

Background and Evidence

These parties have been involved in several proceedings regarding the dispute between them. The file numbers are set out on the cover page for this Decision, however, I have summarized these matters below.

On May 27, 2009, the Tenant's Application for Dispute Resolution was allowed and the Landlord was ordered to provide wheelchair access to the subject building forthwith.

On December 1, 2009, the Tenant received a Decision again compelling the Landlord to provide the wheelchair access and make other repairs. The Tenant also received monetary orders against the Landlord, as well as a rent reduction. The rent reduction was to continue until the Landlord made an Application proving all the orders had been

complied with and requesting the rent return to the normal amount under the tenancy agreement.

On April 28, 2010, a Decision was issued granting the Landlord's Application requesting the rent return to the normal amount under the tenancy agreement.

On April 29, 2010, the Tenant applied for a Review of the April 28, 2010, Decision in the Landlord's Application.

On May 18, 2010, the Tenant's Application for Review was allowed and the Decision and order received by the Landlord on April 28, 2010, **were suspended** pending the Review Hearing scheduled for July 7, 2010.

On May 3, 2010, the Landlord issued the Tenant a 10 day Notice to End Tenancy for unpaid rent. The unpaid rent is the portion the Tenant was allowed to reduce the rent by as a result of the December 1, 2009, Decision and Order.

On June 11, 2010, the Landlord issued the Tenant a second 10 day Notice to End Tenancy for unpaid rent. Again, the unpaid rent is the portion the Tenant was allowed to reduce the rent by as a result of the December 1, 2009, Decision and Order.

Analysis

Based on the above, the evidence and testimony, and on a balance of probabilities, I find that **both Notices to end tenancy are invalid and I order them to be cancelled.**

The Decisions and orders from May 27, 2009, and December 1, 2009, are still in effect and are enforceable against the Landlord.

The Decision and orders granted in the Landlord's Application have been **suspended**, pending the outcome of the Review Hearing. The Landlord must not take any steps to enforce that Decision and order, until the Review Hearing Decision has been made and a determination in favour of the Landlord is granted.

The Tenant is still entitled to the repairs, rent reduction and monetary orders that have been made against the Landlord. Therefore, any 10 day Notice to End Tenancy for unpaid rent served on the Tenant before the Review Hearing determination is made would be invalid.

It is understandable the Landlord did not know what the outcome of the Tenant's Application for Review would be when the May 3, 2010, 10 day Notice to End Tenancy was served on the Tenant. Nevertheless, this Notice must be cancelled as it is of no force or effect due to the suspension of the Landlord's Decision and orders.

However, it should have been clear to the Landlord that the June 11, 2010, 10 day Notice to End Tenancy was unsupportable as the rent reduction had been reinstated due to the suspension of the Landlord's Decision and order.

The Agent for the Landlord testified he was just following "protocols" when he issued the June 11, 2010, Notice to End Tenancy to the Tenant. Based on his demeanour and attitude in the hearing, I do not accept this testimony.

I find that the Landlord intentionally acted in bad faith issuing the second 10 day Notice to End Tenancy, as the Landlord knew or ought to have known the Notice was unsupportable under the Act.

Having found that the Landlord is acting in bad faith in trying to end this tenancy, **I further order that the Landlord is not allowed to issue any Notices to End Tenancy to this Tenant until after a Decision has been made in the July 7, 2010 Review Hearing.** The Landlord is also cautioned to not act in bad faith regarding any future Notices to End Tenancy.

The other relief sought by the Tenant in this matter has been dealt with in the prior Decisions of May 27 and December 1, in 2009, and therefore, I do not need to address those requests in this Decision.

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: June 23, 2010.

Dispute Resolution Officer