

DECISION

Dispute Codes CNC, OLC, PSF, RR, & FF

Introduction

This hearing dealt with an application by the tenant seeking to cancel a one month Notice to End Tenancy for Cause. In addition the tenant is seeking Orders that the landlord comply with the *Act* and regulations, the landlord provided services and the tenant is allowed to a rent reduction due to loss of services.

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.

Issues(s) to be Decided

Has the tenant breached the tenancy agreement or *Act*, entitling the landlord to an Order of Possession to the rental unit?

Has the landlord breached the tenancy agreement or *Act*, entitling the tenant to Orders to reinstate services and reduce rent due to suspended services?

Background and Evidence

This tenancy began on May 11, 2010 for the monthly rent of \$600.00 and a security deposit of \$300.00. These are the only two terms of the tenancy agreement which are not in dispute by the parties.

The tenant testified that she understood the parties had a verbal agreement for the following related to her tenancy agreement:

- That the landlord would be installing a metal gate to provide greater security to the rental unit; and
- The monthly rent included a security system and wireless internet access and laundry access.

The tenant stated that the landlord has not been providing sufficient heat to the rental unit and has been harassing her with telephone calls at work if she leaves a light on or the space heater on.

In her written submission and evidence that tenant stated that when the tenancy agreement was entered into the landlord provided the tenant with the access code to the security system and the access code to the wireless internet. The tenant provided a document dated May 7, 2010 which indicates that the tenancy began May 1, 2010 and that \$400.00 was accepted from May 10 to June 1. Although the document is signed, the signature is not decipherable. At the top of the document there are two codes written and a user name to the internet.

The landlord denied providing any access to the wireless internet and the security system. The landlord did not confirm or deny writing the document provided by the tenant in evidence.

The tenant testified that the rental unit is very cold and that the landlord would not turn on the furnace. Due to the lack of heat and other issues the tenant left the rental unit as of August 26, 2010. However, the tenant did not give notice to end the tenancy and during the hearing stated that she would return to the rental unit once the heat was provided to the unit.

In her written statement the tenant does not raise the issue of laundry facilities until August 2010. According to the tenant's written statement, when she attempted to do her laundry the landlord would not allow her to continue. The tenant states that when she attempted to return to her rental unit the landlord would not let her close the door to her rental unit.

It was during this alleged event that the landlord testified that the tenant pushed the landlord's mother and event is the basis for the service of the one month Notice to End Tenancy for Cause.

Analysis

Based on the testimony and evidence provided, and on a balance of probabilities, I find as follows:

I grant the tenant's application in part. I am satisfied from the tenant's testimony and from the codes and user name provided on the document dated May 7, 2010 that the tenant was provided with access to the wireless internet and a security system.

However, it is very difficult to determine when the tenant lost access to these services. It appears that the conflicts between the landlord and the tenancy began in early August over access to the laundry facilities but the tenant subsequently left the rental unit on August 26, 2010.

All of the evidence provided by both parties is highly contested and neither party has been able to provide any corroborating evidence. None of the alleged agreements between the parties was in writing, with the exception of the codes provided on the document of May 7, 2010.

In fact, I find that all of the parties' conflicts are due to the failure of both the landlord and the tenant to put their agreements in writing. Given the inconsistency of the evidence provided by both the tenant and the landlord, I am only satisfied that the tenant is entitled to use of the security system and the wireless internet.

I do not find any evidence to support the tenant's claim that laundry was provided as part of her tenancy agreement. Rather, I find that the tenant was allowed on one occasion to use the landlord's laundry facility and this resulted in an immediate conflict leading to the landlord issuing the one month Notice to End Tenancy. Prior to this event there is no indication that the tenant ever accessed the laundry.

I also find that there is no evidence to demonstrate an agreement between the parties identifying where the tenant could park and no agreement that the landlord would provide a metal gate. I find that the tenant felt secure in the rental unit with access to the security system.

I was not swayed or convinced by the evidence of the tenant's witness. The witness only confirmed the tenant's position on the issues but did not provide any additional or compelling reason to find that an agreement was reached between the landlord and the tenant.

I do not find that the landlord unreasonably withheld heat from the rental unit. I find that it was reasonable for the landlord to not have the furnace running during the summer months as the tenant had an alternate source of heat. However, it is only reasonable for the landlord to turn off the furnace during the three summer months and only provided that an alternative heat source is provided to the tenant. I find that it was the tenant's choice to leave the rental unit from August 26, 2010 to the date of the hearing.

I find that the tenant has established that wireless internet access and a security system were provided by the landlord. I Order that the immediately reinstate these services to

the tenant as of the date of this decision. I do not accept the tenant's claim for compensation due to loss of services as I find that the tenant only lost access to the services at the time she left the rental unit in August 2010. The tenant is at liberty to file a new application for compensation if the landlord fails to comply with this decision and Order.

I set aside the one month Notice to End Tenancy for Cause.

Conclusion

The tenant's application is granted in part. I have determined that the tenant was provided with wireless internet and a security system as part of the tenancy agreement. I have ordered the landlord to immediately reinstate these services as of the date of this decision. I have also set aside the one month Notice to End Tenancy for Cause. This tenancy will continue with full force and effect.

As the tenant has been partially successful with this application, I Order that the tenant may recover the \$50.00 filing fee paid for this application from the landlord. The tenant may deduct \$50.00 from her next month's rent.

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: October 08, 2010.

Dispute Resolution Officer