



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes CNC, MNDC, RP, ERP, FF

Introduction

This hearing dealt with the tenant's Application for Dispute Resolution seeking to cancel a notice to end tenancy; a monetary order; and an order requiring the landlord to make emergency repairs and repairs.

The hearing was conducted via teleconference and was attended by the tenant and two agents for the landlord.

This hearing was originally set to be heard on January 6, 2011 but was adjourned at that time as the tenant had served the landlord late with her evidence. As a part of that adjournment I ordered the tenant to have her rental unit prepared for treatment against bedbugs in accordance with directions from the landlord's pest control service provider.

At the outset of the hearing the tenant confirmed that she had failed to comply with the above noted order. The tenant stated that there were three items not quite right for the contractors and besides the next door neighbours had not been booked for treatment on that date so it wouldn't have been treated that day anyway.

On this point the landlord read into evidence an excerpt from the service report from the service provider that stated that the unit was not fully prepared, clothing in closets, no access to furniture, too much clutter, boxes and plastic bags on bed frames and dresser was blocked by boxes.

Based on the above, I find the tenant failed to comply with my order issued on January 7, 2011. I note here also that the landlord did not verbally request an order of possession during this hearing.

Issue(s) to be Decided

The issues to be decided are whether the tenant is entitled to cancel a 1 Month Notice to End Tenancy for Cause; to compensation for damage or loss under the *Residential Tenancy Act (Act)*, regulation or tenancy agreement; to an order to have the landlord make repairs and emergency repairs and to recover the filing fee from the landlord for the cost of the Application for Dispute Resolution, pursuant to Sections 32, 33, 47, 67, and 72 of the *Act*.

Background and Evidence

The tenancy began in November 2008 as a month to month tenancy for a current monthly rent of \$900.00 due on the 1st of each month with a security deposit of \$450.00 paid.

The landlord testified that prior to the start of the tenancy the tenant examined the rental unit and advised the landlord that she had sensitivities to mould and she could tell that the unit was mould free. Shortly after the start of the tenancy the tenant started to complain about mould in the unit.

Each time there was a complaint the landlord made efforts to address the issues. The final time was late in 2009 when the landlord's contractor made three attempts to remove and install a new countertop based on the tenant's complaints about a mould problem in and around the kitchen sink.

The landlord testified that the tenant refused the contractor entry on these three occasions and that he still has the countertop in the garage ready for installation but the tenant has never allowed them to make the repair.

The tenant contends that as a result of the landlord failing to rid the rental unit of mould or to allow her to move into another rental unit that according to her personal assessment was mould free, that the landlord has caused her severe health problems.

The landlord states he offered for her to move into another unit that she noted it would be a temporary move but that she really wanted a new unit with a southern exposure. The landlord denied her further requests to be relocated partly based on this and partly based on the fear that because she had said she could tell that the unit she was in was mould free prior to move in and within months she had identified a mould problem that her personal assessment was less than accurate.

In late summer of 2010 a bedbug problem was notice and since that time the landlord has been trying to get the tenant to prepare her unit for treatment and despite repeated attempts the tenant has always failed to comply, including as noted above after my order of January 7. 2011.

The tenant contends that she could not prepare her unit because the mould kept worsening her medical condition. She states she hired contractor to help her and although they billed her for over \$2,000.00 the unit was still not ready; she claims that she had to have all her clothes cleaned and did so through a drycleaner.

The tenant also claims that she had to move out of the rental unit into a motel for two months in October and November 2010 and seeks recover of those costs. The tenant notes that she did receive funding from her church to cover these costs (\$1,200.00 for October and \$1,600.00 for November) and some additional funding for December 2010 (\$900.00).

The tenant is claiming for additional costs such as eating out in restaurants and taxi's, some medications; costs of mould assessments (no receipt provided); a letter explaining the mould assessment. The tenant is also seeking return of rent for the period from mid 2009 to the current date for rents paid.

Analysis

Section 47 of the *Act* allows a landlord to end a tenancy if a tenant significantly interferes with or unreasonably disturbs another occupant or the landlord; seriously jeopardizes the health safety or lawful right of another occupant or the landlord; and puts the landlord's property at significant risk.

Based on the testimony provided, I find that the tenant's refusal to allow the landlord to make repairs to the countertop have perpetuated a problem that the tenant has identified as causing her health problems that prevents her from preparing the rental unit for bedbug treatment.

As the tenant has not prepared the rental unit for bedbug treatment for the past 6 months, including after being ordered as a part of this dispute process, I find the landlord has established sufficient cause that the tenant has put the landlord's property at significant risk and she has jeopardized the health and safety of other occupants and the landlord.

In relation to the monetary claim, I find that it was the tenant's actions that prevented the landlord from making repairs and emergency repairs over the majority of the duration of the tenancy and therefore the landlord has not violated the *Act*, regulation or tenancy agreement that warrants any loss or damage compensation for the tenant.

Conclusion

For the reasons noted above, I dismiss the tenant's application in its entirety. I find the 1 Month Notice to End Tenancy for Cause issued on November 30, 2010 to be valid notice and as the effective date of the notice has already passed, I note the tenant should vacate the rental unit immediately.

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: January 25, 2011.

Residential Tenancy Branch