



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes:

CNC, MNDC, RP, ERP, LRE

Introduction

This hearing was convened in response to the Tenant's Application for Dispute Resolution, in which the Tenant applied to set aside a Notice to End Tenancy for Cause; for a monetary Order for money owed or compensation for damage or loss; for an Order requiring the Landlord to make repairs to the rental unit; and for an Order suspending or setting conditions on the Landlord's right to enter the rental unit.

Both parties were represented at the hearing. They were provided with the opportunity to submit documentary evidence prior to this hearing, to present relevant oral evidence, to ask relevant questions, to call witnesses, and to make submissions to me.

The Tenant stated that she served the Landlord with a copy of the Application for Dispute Resolution, a copy of the Notice of Hearing; and a copy of the Notice to End Tenancy on January 07, 2011. The Landlord acknowledged receipt of these documents and they were considered when determining the merits of this matter.

The Tenant submitted a package of evidence to the Residential Tenancy Branch on January 17, 2010. She stated that she was unable to serve this evidence on the Landlord. As the evidence has not been served on the Landlord it will not be considered when determining the merits of this matter.

Issue(s) to be Decided

The issues to be decided are whether the Notice to End Tenancy for Cause, served pursuant to section 47 of the *Residential Tenancy Act (Act)*, should be set aside; whether the Tenant is entitled to compensation for damaged personal property; whether there is a need for an Order requiring the Landlord to repair the rental unit; and whether there is a need for an Order suspending or setting conditions on the Landlord's right to enter the rental unit.

Background and Evidence

The Landlord and the Tenant agree that this tenancy began on October 28, 2008 and that the Tenant is currently required to pay rent of 750.00 on the first day of each month.

The Landlord and the Tenant agree that on January 04, 2011 or January 05, 2011 a One Month Notice to End Tenancy for Cause was served on the Tenant indicating that the Tenant was required to vacate the rental unit on February 01, 2011. The reasons stated for the Notice to End Tenancy were that the Tenant or a person permitted on the property by the Tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord; that the Tenant has engaged in illegal activity that has, or is likely to, adversely affect the quiet enjoyment, security, safety or well-being of another occupant; that the Tenant has engaged in illegal activity that has, or is likely to, damage the Landlord's property; and that the Tenant has not done required repairs of damage to the rental unit.

After considerable discussion regarding the merits of the Notice to End Tenancy, the Landlord agreed to withdraw his Notice to End Tenancy; the Tenant agreed to withdraw her application to cancel the Notice to End Tenancy; and the parties mutually agreed to end this tenancy on February 28, 2011.

During the hearing the Tenant stated that she wishes to withdraw her application for an Order requiring the Landlord to make repairs to the rental unit, as she does not want to live with the disruption of repairs, given that she is vacating at the end of February.

During the hearing the Tenant stated that she wishes to withdraw her application for a monetary Order for compensation for damage to her personal property, due to the fact she has not had time to serve the Tenant with evidence that supports her claim for compensation.

The Tenant stated that during the first year of her tenancy she believed the Landlord or an agent for the Landlord entered her rental unit on several occasions, as she found lights left on or property moved. She stated that it has not happened in the past year, as she rarely leaves the home unoccupied. The Landlord stated that he has never entered the rental unit without permission.

The Landlord stated that the Tenant refuses to allow him to show the rental unit to prospective purchasers, although he has never given the Tenant written notice of his intent to enter the rental unit. The Tenant stated that she does not want purchasers entering her rental unit as the unit is small and crowded.

Analysis

As the Landlord agreed to withdraw his Notice to End Tenancy; the Tenant agreed to withdraw her application to cancel the Notice to End Tenancy; and the parties mutually agreed to end this tenancy on February 28, 2011, I find that it is not necessary for me to determine the merits of the Landlord's Notice to End Tenancy.

As the Tenant withdrew her application for an Order requiring the Landlord to make repairs to the rental unit, I find that it is not necessary for me to determine the merits of the Tenant's application for repairs.

As the Tenant withdrew her application for a monetary Order, I find that it is not necessary for me to determine the merits of the Tenant's application. The Tenant retains the right to file another application seeking compensation for damage to her property if the parties are unable to reach a resolution to this matter.

I find that the Tenant has submitted insufficient evidence to show that the Landlord has entered the rental unit without lawful authority. It appears to me, however, that neither party understands the Landlord's rights and obligations regarding entry into this rental unit and I find that it is necessary to define those rights and obligations in this decision.

Conclusion

I hereby remind the Landlord and the Tenant that, pursuant to section 29 of the *Act*, the Landlord or an agent of the Landlord must not enter this rental unit unless the Tenant gives permission at the time of the entry or not more than 30 days before the entry; at least 24 hours and not more than 30 days before the entry, the landlord gives the tenant written notice that advises the Tenant of the purpose for entering, which must be reasonable, and the date and the time of the entry, which must be between 8 a.m. and 9 p.m. unless the tenant otherwise agrees; the Landlord has an order of the director authorizing the entry; the Tenant has abandoned the rental unit; or an emergency exists and the entry is necessary to protect life or property.

As there appears to be a conflict regarding the Landlord's right to enter the rental unit for the purposes of showing it to prospective purchasers, I hereby Order that the Landlord may only enter the rental unit for the purposes of showing it to prospective purchasers or new tenants on Wednesdays and Saturdays, between the hours of 11 a.m. and 7 p.m. I find that this limit reasonably balances the Tenant's right to privacy with the Landlord's right to sell or rent his property. In an effort to reduce conflict between these parties, I hereby Order the Landlord to provide the Tenant with written notice of his intent to show the rental unit at least 24 hours before the entry, which advises the Tenant that he is showing the unit to prospective purchasers or renters.

In a further effort to reduce conflict between these parties, I Order the Landlord to refrain from entering the suite to conduct repairs or routine maintenance prior to February 28, 2011, unless the repairs are urgent and necessary or the Tenant requests that the repairs be made.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*.

Dated: January 21, 2011.

Residential Tenancy Branch