



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

CNC

Introduction

This hearing was convened in response to an application by the tenant to cancel a Notice to End for Cause with an effective date of January 31, 2012.

Both parties attended the conference call hearing and provided their submissions and their testimony and were permitted to discuss their dispute and resolve it. The landlord orally requested the notice to end be upheld and an order of possession.

Issue(s) to be determined

Should the Notice to End be cancelled?
Is the landlord entitled to an Order of Possession?

Background and Evidence

This tenancy began in 2004. The parties disagree as to whether there was an inspection of the rental unit at the outset of the tenancy. Specifically, the parties disagree on the general condition of the rental unit at the outset of the tenancy. The hearing did not have benefit of a condition inspection report to indicate the condition of the rental unit in 2004. On December 19 the landlord gave the tenant a Notice to End Tenancy for Cause, with an effective date of January 31, 2012. The reason stipulated on the Notice to End is: *the tenant has caused extraordinary damage to the unit or property.*

For this type of application, the onus is on the landlord to prove the Notice to End was issued for valid and sufficient reasons as stipulated in the Notice to End, and that the reasons must constitute sufficient cause for the Notice to be valid. The landlord claims that the tenant's conduct has resulted in moisture damage to the window sill in the master bedroom. The landlord claims the tenant's application of "heavy" drapery to the window does not allow the control of moisture at the window, which has resulted in rotting at the window frame causing damage. The tenant disagrees with the landlord's assessment and claims the window had rot when they began the tenancy in 2004, and that the window frame has been compromised by the quality of the window. The tenant claims they cover the window to mitigate bothersome street light into the bedroom at night time – citing that the landlord-supplied venetian blind is insufficient window

covering. The landlord provided some document and photographic evidence in support of their reason for issuing the Notice to End.

Analysis

During the course of the hearing, the parties discussed their dispute, turning their minds to compromise. The parties reached agreement - choosing to settle this matter in full satisfaction of the tenant's application and the landlord to the parties' mutual satisfaction, on the following conditions; and, at their request, that I record the parties' settlement in accordance with Section 63 of the Act, as follows.

1. The landlord agrees to **install a curtain rod(s)** at the master bedroom window.
2. The tenant agrees they will **supply drapery** for the curtain rod which will be **capable of being fully drawn open and away from the window.**
3. The tenant agrees that **the drapery will be drawn closed only at night**, and will be **fully drawn open and away from the window during the daytime.**
4. The tenant agrees they will **maintain the window track free of debris** and keep the window track clean to support the control of moisture.
5. The landlord agrees to **ensure the window track** allows for the intended control of moisture.
6. The landlord agrees to withdraw this Notice to End.

It is understood by the parties that the landlord is at liberty to issue a new Notice to End for valid and sufficient reasons.

Conclusion

The parties chose to settle their dispute upon the above conditions. Their settlement is binding on the parties.

The landlord's Notice to end is effectively cancelled and is of no effect.

The landlord is at liberty to issue a new Notice to End for valid and sufficient reasons.

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 10, 2012

Residential Tenancy Branch