



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION and ORDERS

Dispute Codes CNC, OLC, MNDC, PSF, RP, FF

Introduction

This hearing dealt with the Tenant's Application for Dispute Resolution, seeking orders to cancel a Notice to End Tenancy issued for alleged cause, to compel the Landlord to comply with the Act or tenancy agreement, to make repairs to the rental unit or property, to provide services or facilities required by law or under the tenancy agreement, for monetary compensation under the Act or tenancy agreement, and to recover the filing fee for the Application.

The Tenant and an Advocate (his sister) appeared, gave affirmed testimony and were provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me.

The Tenant and Advocate testified that they served the Landlords with the Application and Notice of Hearing by registered mail, sent on January 19, 2012, and deemed under the Act to be served five days later. Despite this, no one appeared on behalf of the Landlords. I find the Landlords have been duly served in accordance with the Act.

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.

Issue(s) to be Decided

Should the Notice to End Tenancy for alleged cause be cancelled?

Are the Landlords violating the Act or tenancy agreement?

Is the Tenant entitled to the other relief sought?

Background and Evidence

This tenancy began on May 1, 2005, with the parties entering into a written tenancy agreement.

On or about January 8, 2012, the Landlords served the Tenant with a one month Notice to End Tenancy for alleged cause, with an effective end date of February 29, 2012 (the

“Notice”). As described above, the Landlords did not appear at the hearing in regard to this Notice. The Tenant requests that the Notice be cancelled.

The Tenant and his Advocate testified that in or around December of 2010, the Landlords disconnected the intercom to the rental unit. The Tenant spoke to the Agent for the Landlord and the Landlord at different times about restoring the intercom system.

The Tenant did not write to the Landlord until December of 2011, requesting the intercom be repaired. After this, the owner of the property wrote to the Tenant and informed him he was had no obligation under the tenancy agreement to provide him with an intercom system. The Tenant provided a copy of this letter in evidence.

The Tenant requests the intercom be repaired and he receive compensation for loss of the facility.

The Tenant received a Notice of Rent Increase from the Landlords on or about June 9, 2011, indicating the rent for the rental unit was increasing from \$565.00 to \$578.00, or \$13.00 per month. The Tenant testified the increase went into effect on July 2011.

The Tenant disputes the Rent Increase, stating the Landlord began deducting the increase too soon as the Act requires three months notice of a rent increase.

Analysis

Based on the above, the evidence and testimony, and on a balance of probabilities, I find as follows.

I cancel the Notice issued by the Landlords on January 8, 2012.

The Landlords failed to provide any evidence in support of the alleged causes set out in the Notice and therefore, there is insufficient evidence to support it. **I order that the Notice is cancelled, and is of no force or effect. This tenancy will continue until it ends in accordance with the Act.**

I order the Landlords to immediately repair the intercom to the Tenant’s rental unit. The Landlords have breached sections 27 and 30 of the Act, by terminating a service which is essential to the Tenant’s use of the rental unit and by restricting access to the rental unit for the Tenant or his guests. By disconnecting and refusing to reconnect the intercom the Landlords are in breach of the Act.

Section 67 of the Residential Tenancy Act states:

Without limiting the general authority in section 62(3) [*director’s authority*], if damage or loss results from a party not complying with this Act, the regulations or a tenancy agreement, the director may determine the amount of, and order that party to pay, compensation to the other party.

I find the Tenant has suffered a loss due to the various breaches of the Act by the Landlords.

I allow the Tenant compensation in the amount of \$10.00 per month for December of 2011, and for each of January and February of 2012. Therefore, I find the Tenant is entitled to **\$30.00** compensation.

Having found that the intercom is essential to the use of the rental unit by the Tenant, I **further order that if the intercom is not repaired by the end of February 2012, the Tenant may reduce his rent payable to the Landlord by \$100.00 per month in March of 2012 and may reduce the rent by \$100.00 per month for any portion of any subsequent month that the intercom is not working.**

I find that the Notice of Rent increase issued by the Landlords is not valid under the Act. **I order that the rent increase is cancelled.**

Under the Act and regulation, the Landlords must provide the Tenant three months notice of a rent increase. Furthermore, the Landlords were only allowed to increase the rent by 2.3% in 2011, or to \$12.99. The Landlords increased the rent by \$13.00 per month and therefore, I find the rent increase was invalid.

Policy Guideline 37 is clear, the Landlords should not have rounded up the rent increase, even if it was only one cent:

“As the Act specifies that the rent increase **cannot exceed** the percentage amount, a landlord should not round up any cents left in calculating the allowable increase.”

[Reproduced as written.]

The Landlords may issue a new rent increase, but it may not come into effect until at least three months after it is properly served on the Tenant and must not exceed the amount of rent increase allowed under the Act. The Landlords must follow the rent increase provisions of the Act.

I order that the Landlords must return the amount of the illegal rent increase to the Tenant. I order that the Tenant is entitled to compensation of **\$104.00** for the illegal rent increase from July of 2011 to February of 2012.

I also order that the rent for the rental unit from March 2012 on is **\$565.00**, unless it is reduced by my orders here or until it is increased in accordance with the Act.

The Tenant and his Advocate also testified that on February 5, 2012, someone entered the rental unit of the Tenant and removed his documents pertaining to this hearing. As there was no forced entry at the rental unit, and the only things missing were documents pertaining to this hearing, the Tenant and his Advocate suspect that one of the Landlords may have entered the rental unit without authority to do so.

The Landlords and their Agents are strongly cautioned against removing any property from the rental unit of any of their tenants and are also prohibited from entering the rental unit without following the notice provisions of the Act.

The Tenant is also advised to contact the police to report this incident, or any further incidents of this type.

Lastly the Tenant alleges that an Agent for the Landlord has slandered the Tenant to persons at the local Legion. The Landlords are strongly cautioned to prohibit this with their Agents, as they are responsible for the actions of their Agent in regard to any personal information that the Agents may have which was gained through the tenancy relationship.

Conclusion

Having made the above findings and orders, I find that the Tenant is entitled to monetary compensation from the Landlords in the total amount of **\$184.00**, comprised of \$30.00 for loss of the intercom, \$104.00 for the rent overpayment and \$50.00 for the filing fee for the Application.

I order that the Tenant may deduct **\$184.00** from one month of rent due to the Landlord to recover this amount. (The Tenant may deduct this amount from any further reduced amount of rent due.)

This decision is final and binding on the parties, except as otherwise provided for under the Act, and 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: February 06, 2012.

Residential Tenancy Branch