



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, MNDC, OLC, ERP, LRE, LAT, RR, FF, O

Introduction

This hearing dealt with the tenant's Application for Dispute Resolution seeking to cancel a notice to end tenancy; a monetary order and orders to reduce the rent for services agreed upon but not provided; to make emergency repairs; to change the locks on the rental unit; to restrict the landlord's access to the rental unit.

The hearing was conducted via teleconference and was attended by the tenant only.

The tenant testified he served the landlord with the notice of hearing documents and his Application for Dispute Resolution, pursuant to Section 59(3) of the *Residential Tenancy Act (Act)* by registered mail on March 2, 2012 and with his amended Application on March 9, 2012 personally and that this service was witnessed by a third party.

Based on the testimony of the landlord, I find that the tenant has been sufficiently served with the documents pursuant to the *Act*.

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 a monetary order for services agreed to but not provided; for an order to allow the tenant change locks; to suspend or set conditions on the landlord's right to enter the rental unit; to allow the tenant reduced rent and to recover the filing fee from the landlord for the cost of the Application for Dispute Resolution, pursuant to Sections 27, 28, 30, 31, 47, 67, and 72 of the *Act*.

Background and Evidence

The tenant submits the tenancy began under a verbal tenancy agreement on November 15, 2011 for a monthly rent of \$1,000.00 due in instalments on the 1st and 15th of each month and that no security deposit was paid to or requested by the landlord. The tenant submits the agreement included the provision of cable.

The tenant testified that the landlord has entered his rental unit on several occasions when the tenant has not been at home and that the landlord has assaulted him on a couple of occasions including an incident where the landlord spit on the tenant. The tenant has submitted copies of police reports regarding interactions between the two parties.

The tenant submits the landlord has failed to provide cable as per the original agreement and that for the past couple of months she has not replenished the oil and there is no heat in the rental unit other than electric heaters that he is using. The tenant also seeks to have an exterior light replaced outside of his door and to have the shower repaired.

The tenant submits that the landlord attempted to have him sign a tenancy agreement dated February 27, 2012 with very different terms than the original agreement and he provided a copy of this document.

The tenant provided a copy of a 1 Month Notice to End Tenancy for Cause issued by the landlord on March 5, 2012 with an effective vacancy date of April 5, 2012 citing the tenant has repeatedly been late paying rent; 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 and seriously jeopardized the health or safety or lawful right of 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 physical well-being of another occupant or the landlord and jeopardized a lawful right or interest of another occupant or the landlord; and that the security deposit was not paid within 30 days as required by the tenancy agreement.

The tenant also seeks compensation for lost income for days when he has had to remain at home or to deal with disruptions caused by the landlord's behaviour, in the amount of \$720.00 based on his salary this is equivalent to 3 days pay.

Analysis

Section 47 of the *Act* allows a landlord to end a tenancy by giving notice to end the tenancy if one or more of the following applies:

- a) The tenant does not pay the security deposit or pet damage deposit within 30 days of the date it is required to be paid under the tenancy agreement;
- b) The tenant is repeatedly late paying rent;
- c) The tenant or a person permitted on the residential property by the tenant has
 - i. Significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property,
 - ii. Seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant;
- d) The tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that
 - i. Has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property, or
 - ii. Has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;

In the absence of any testimony or evidence from the landlord I accept the landlord has failed to establish that she has any cause to end the tenancy and I order the tenant is allowed to disregard the 1 Month Notice to End Tenancy for Cause issued on March 5, 2012.

Section 32 requires a landlord to provide and maintain a rental unit in a state of decoration and repair that complies with health, safety and housing standards required by law and having regard for the age, character and location of the rental unit make it suitable for occupation.

I accept the tenant's testimony, in the absence of any disputing testimony, that the original tenancy agreement obligated the landlord to provide cable and that she has not provided cable since the start of the tenancy; that the tenant has been without heat for a period of time; that the shower requires repair and the external light at the tenant's entrance requires replacement. I find the landlord has failed in her obligations under Section 32 of the *Act*.

As such, I make the following orders:

- The landlord to repair the shower;
- The landlord must provide a replacement and permanent light fixture at the tenant's entrance;
- The landlord must provide heat to the rental unit by filling the oil tank and restarting the furnace; and
- The landlord must provide cable as per the original verbal agreement.

In support of these orders, I order that the tenant is allowed to reduce the monthly rent he pays the landlord by \$250.00 per month until such time as the landlord obtains an order from a Dispute Resolution Officer confirming the orders have been complied with and allowing the landlord to reinstitute the original rent amount.

In addition, based on the tenant's undisputed testimony I authorize and order the tenant is allowed to change the locks on the rental unit, in accordance with Section 31 of the *Act*. The tenant is not required to provide the landlord with a new key.

Further, I order the landlord is prohibited from entering into the rental unit at any time unless the entry is required to either comply with her obligations as a landlord or assert her rights as a landlord. In any event, the landlord will require the tenant's express consent to enter, preferably in writing.

Finally, in relation to the tenant's claim for compensation for lost income, while I cannot grant compensation for lost income, I do find the tenant has established that has a result of the landlord's failure to provide cable and heat the tenant has suffered a financial loss and I find that \$250.00 is reasonable compensation for this loss.

I order the tenant may reduce his next rent payment by this amount to satisfy this compensation. For the sake of clarity this means that for the month of April the tenant is allowed to reduce his rent by \$550.00 in total - \$250.00 for this compensation; \$250.00 for the reduced rent in recognition of the services and repairs ordered above; and \$50.00 to recover the filing fee for this Application paid by the tenant.

Conclusion

For these reasons, I find the tenancy to be in full force and effect and subject to the orders issued above.

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: March 14, 2012.

Residential Tenancy Branch