



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC and MNDC

Introduction

This hearing was convened on the tenant's application received May 17, 2012 to have set aside a one-month Notice to End Tenancy for cause dated May 9, 2012 and setting an end of tenancy date of June 30, 2012. The tenant also seeks monetary compensation for what is described on his application as loss of quiet enjoyment, but what he stated at hearing was for the landlord's failure to repair a window.

Issue(s) to be Decided

This matter requires a decision on whether the Notice to End Tenancy should be set aside or upheld and whether the tenant is entitled to monetary compensation.

Background, and Evidence

This tenancy in a 10-unit townhouse complex began on April 1, 2004. Rent is \$635 per month and the landlord holds a security deposit of \$212.50 paid on March 26, 2004.

During the hearing, the landlord gave evidence that the Notice to End Tenancy had been served because, in breach of section 47 of the *Act*, the tenant had:

1. Significantly interfered with or unreasonably disturbed other occupant or the landlord;
2. Put the landlord's property at significant risk;
3. Caused extraordinary damage to the rental unit;
4. Breached a material term of the rental agreement, not corrected within a reasonable time of written notice to do so;
5. Failed to comply with an order under the legislation within 30 days.

During the hearing, the landlord submitted a plethora of evidence outlining causes to end the tenancy, each challenged by the tenant. The claims made by the landlord included failure of the tenant to comply with the terms of a consent agreement crafted during a hearing on January 10, 2012.

The central issue in that hearing appeared to be that the tenant, finding that the venetian blinds provided with the rental unit did not sufficiently block ambient light at night, had covered the windows permanently with heavy drapes resulting in a build up of condensation

By the agreement, the landlord was to install a curtain rod for the master bedroom window and the tenant was to supply curtains. The balance of the agreement, directed toward reducing or eliminating condensation on the windows and consequent development of mould and damage to the sills, included a promise by the tenant to open curtains during the day to permit evaporation and to keep the track clean with the landlord taking on assurance that the track drain was functioning..

On that agreement, the landlord withdrew a notice to end tenancy. The landlord stated that he had complied with the agreement but submitted a photograph showing the curtain rod but no drapes. In addition, the conflict continued in the present hearing for other rooms in the unit.

The landlord cited a number of other causes for ending the tenancy, but one dealing with the general upkeep and cleaning of the rental unit is paramount.

For the purpose of working on and monitoring the condensation problem, the landlord visited the rental unit on a number of occasions and found it to be in deplorable condition.

Photos submitted from an inspection on April 19, 2012, in addition to showing rot on one window sill and mould on others, also showed various boxes and materials covering much of the floor area of the rental unit..

The landlord wrote to the tenant on April 26, 2012 reminding him of his duty under section 32 of the *Act* to maintain reasonable cleanliness and sanitary standards. After detailing some of the items not in compliance, the letter concluded, "Please rectify the conditions above within 14 days or I may seek a monetary order, service a notice to end tenancy or both."

When he conducted a follow up inspection on May 8, 2012, the landlord took approximately 35 photographs showing the heavy drape still up in one room, mould and potential rot on the window sills, outside debris on the carpet and various items covering the floor, carpet stains on the stairs, dirt and clothing strewn on the master bedroom carpet, clutter at the front of the rental unit including furniture on the common area (said by the tenant to be city property), grease stains on the wall above the sink, accumulated grease on the stove top and fridge top, dirt on the side of the toilet and towels and clothes strewn about the bathroom floor, no drapes hung on the rod installed by the landlord, heavy clutter in the office and a rotted sill, among others.

By letter of April 23, 2012, the landlord had also given the tenant similar notice with respect to the patio area and ask the tenant to remove his furniture from the common area, a matter clearly not remedied in the photographs from the May 8, 2012 inspection.

Analysis

Section 47(1)(h) of the Act provides that a landlord may issue a Notice to End Tenancy for cause under circumstances in which the tenant

- (i) has failed to comply with a material term, and
- (ii) has not corrected the situation within a reasonable time after the landlord gives written notice to do so;

I found the evidence that the tenant has failed to maintain the cleanliness and sanitary standards required under section 32 of the *Act* despite written notice to be so compelling that I did not need to canvass the other causes to end the tenancy cited by the landlord.

Therefore, I advised the parties that I could not set the Notice the Notice to End Tenancy of May 9, 2012 aside and dismissed the tenant's application.

On hearing that determination, the landlord requested and I find he is entitled to an Order of Possession under section 55(1) of the *Act* which compels the issuance of the order on the landlord's verbal request when a tenant's application to set such notice aside is dismissed and/or the notice is upheld.

The Order of Possession will take effect on June 30, 2012, the end of tenancy date set by the Notice to End Tenancy.

I find the tenant's application to be without merit and it is dismissed in its entirety.

Conclusion

The Notice to End Tenancy of is upheld and the landlord's copy of this decision is accompanied by an Order of Possession to take effect at 1 p.m. on June 30, 2012.

The tenant's application is dismissed.

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: May 29, 2012.

Residential Tenancy Branch