



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL, MNDC and RP

Introduction

This hearing was convened on the tenant's application to have set aside a Notice to End Tenancy for landlord use dated May 11, 2012 and setting an end of tenancy date of August 27, 2012. The tenant also sought an order for repairs to the rental unit and monetary compensation for loss of quiet enjoyment.

Issue(s) to be Decided

Has the tenant proven that the Notice to End Tenancy was not served in good faith and is an order for repair to the rental unit and monetary compensation warranted by the evidence submitted.

Background and Evidence

This tenancy began on February 27, 2012 under a fixed term rental agreement set to end on August 27, 2012 with the option of becoming a month to month tenancy at its conclusion. Rent is \$975 per month and the landlord holds a security deposit of \$487.50.

During the hearing, legal counsel for the landlords gave evidence that the landlord had served the notice over three months prior to the end date as they wished to use the rental unit for a close family member as permitted under section 49 of the *Act*. The landlords' evidence included a letter from their son stating his wish to move into the rental unit to be close to his parents but affording him some independence.

The tenant stated that she questioned the good faith of the notice as the landlords had

Indicated during discourse on a odour issue in the rental unit that matters might be resolved by way of a Notice to End Tenancy for landlord use.

The matter of the odour problem, and the issue on which the tenant seeks a repair order and compensation, was first reported to the landlord's by the tenant's letter of March 16, 2012 reporting a worsening smell which she thought might be sewer gas or a decaying rodent inside the wall.

The tenant again wrote to the landlords on April 26, 2012 reporting that the problem had continued unabated and requesting that the landlords address the problem no later than May 4, 2012.

The landlords gave evidence that the rental unit had been attended to by a plumber in early April who reported tightening a loose sewer cap which he said was not loose enough to allow gas to escape, and he did not report a strong odour.

After receiving the tenant's letter of April 26, 2012, the landlords called another plumber who reported that he had placed silicone around the area to ease the tenant's concerns, but noted no strong odours.

Another plumber was contacted to attend the unit on May 1, 2012 but did not keep the appointment. That day, a restoration services company did attend and conducted tests with a thermal imaging camera and a protometer. The restoration company detected no odours or moisture coming from any of the suspect sources indicated by the tenant.

Yet another plumber was called on May 7, 2012 in response to the tenant's continuing concerns, provided a written report, and returned again for further inspection work.

Finally, the landlords brought in a septic service company which checked and pumped the tank and replaced the effluent filter.

The landlord's legal counsel stated that the efforts had cost in excess of \$1,000 and none of the service providers had identified the odour complained of by the tenant.

In her present submissions, the tenant seeks an order for the landlord to open the wall to check for the possibility of decaying rodents.

Analysis

As to the tenant's request to have the Notice to End Tenancy set aside, I find that she has not provided sufficient evidence to prove that the notice was not given in good faith. I find that the notice is lawful and valid and it is upheld.

As to the request for repairs, I find that the landlord has gone to extraordinary measures to address the tenant's concerns. In the absence of any corroborating verification by the several persons who have investigated the matter, I find insufficient evidence to warrant an order for repairs and the request and that for monetary compensation are dismissed.

Conclusion

The application is dismissed in its entirety without leave to reapply.

The parties are reminded that, with the Notice to End Tenancy for landlord use pending, the tenant may end the tenancy with 10 days notice under section 50 of the *Act* and the tenant is entitled to payment in the equivalent of one-month's rent whether the tenancy ends on the tenant's 10-day notice or on August 27, 2012 on the landlords' notice

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: June 08, 2012.

Residential Tenancy Branch