



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, MNDC, OLC, ERP, RP PSF, LAT and RR

Introduction

This hearing was convened on the tenant's application to have set aside a one-month Notice to End Tenancy for cause dated July 15, 2012 and setting an end of tenancy date of August 15, 2012. The end of tenancy date is amended to August 31, 2012 to conform with the requirement that the notice take effect at the end of the next rental period following service.

The tenant also seeks a monetary award for loss or damage under the legislation or rental agreement, an order for landlord compliance, emergency repairs, repairs, provision of services or facilities, authorization to change locks and a rent reduction.

Rule of Procedure 2.3 provides that:

If, in the course of the dispute resolution proceeding, the Dispute Resolution Officer determines that it is appropriate to do so, the Dispute Resolution Officer may dismiss unrelated disputes contained in a single application with or without leave to reapply.

Given the number of claims submitted by the tenant on the present application and as the hearing progressed, it became apparent it would be necessary to limit the present hearing to the Notice to End Tenancy as the paramount issue in dispute.

I note that the tenant made a previous application for a number of the other matters and the hearing on that application has been set for September 24, 2012.

Issue(s) to be Decided

Should the Notice to End Tenancy be set aside or upheld?

Background and Evidence

This tenancy began on November 1, 2010. Rent is \$575 per month and the landlord holds security and pet damage deposits of \$300 and \$100 respectively, paid at the beginning of the tenancy.

I must note that the landlords have placed themselves at a disadvantage in this matter by taking too casual an approach to managing the tenancy. For example, there is no written rental agreement, they have not provided receipts for rent, and they have been remiss in providing 24-hour written notice to inspect the rental unit, all of which are required by the Act. In addition, they claim a number of verbal warnings with respect to alleged breaches by the tenant, but have failed to provide them in writing.

During the hearing, the tenant and his advocate suggested that the Notice to End Tenancy of July 15, 2012 had been served in retaliation for the tenant having made application for monetary compensation and other remedies under the *Act*.

The named landlords in this matter are mother and son. The son stated that the notice had not been retaliatory but had followed an incident the day before when the tenant and two friends were openly sharing a marijuana smoke in the back yard. He said the tenant's marijuana use had invoked numerous complaints from neighbours, had disturbed the tenant in the adjoining basement suite, and the odours had permeated the landlord's upper suite. He submitted a solicited petition bearing signatures of 15 neighbours supporting the end of the tenancy and citing late night noise and exposure of neighbourhood children to the marijuana use, among others.

The tenant stated that he is authorized to use marijuana medically and has shown the landlord the verifying documentation. The tenant stated that he has been smoking marijuana in the rental unit for the past month because during one of three or four police visits to the rental unit to address conflicts between tenants and the landlord, one of the police officer suggested he do so.

According to the landlords, the verbal rental agreement permitted the tenant to smoke cigarettes, but several feet away from the building. The landlord stated that he had only been advised of the marijuana use after the tenancy had begun and acquiesced to its use outdoors and away from the building.

The landlord submitted a series of complaints from the former resident of the adjoining unit from April of 2011 over conflicts with the applicant tenant over having to walk through marijuana smoke and his aggressiveness with her or common areas. However, given that they are removed in time from the present dispute, I place only a minimum of weight on them.

The landlord also cited the tenant's repeated refusal to tidy to keep his exterior area clean and to be considerate of the other tenant and the landlord in his use of exterior space.

More recently, written submissions from the current tenant cited the applicant's accumulated belongings in and around their shared area, hearing the tenant and his friend in a drunken state planning to retaliate against her over a broken door, leaving her very little room to park, yelling at her grandson, etc.

The broken door to the applicant's suite remains unresolved until the next hearing as the parties disagree as to who caused the damage.

Analysis

Section 47 of the *Act* empowers a landlord to issue a one-month Notice to End Tenancy for cause. While the landlord has applied under a number of subsections, I find that 47(1)(d)(1) - significant interference with or unreasonable disturbance of another occupant or the landlord of the residential property - best encapsulates the issues in dispute.

I find that by the tenant's own accounting, he has been smoking marijuana in the rental unit for the past month, and that doing so is a breach of the unwritten rental agreement. Even if the tenant was doing so at the suggestion of a police officer as a way to reduce conflict with neighbours, it is a breach nonetheless and one that justifies ending the tenancy.

I am further persuaded by evidence of the female landlord and her daughter that they are frightened of the tenant and his associates and I accept the evidence of the

daughter that she has been so distressed by situation that she has not slept at home since July 6, 2012.

Therefore, I decline to set the Notice to End Tenancy aside. With the amendment to the end date to conform with service requirements, I find that the tenancy ends on August 31, 2012.

The landlord is at liberty to apply for an Order of Possession if necessary and for any such damages as may be ascertained at the conclusion of the tenancy.

At the conclusion of the hearing, the tenant's advocate requested that the tenant be provided with receipts for rent paid and for the security and pet damage deposits. I so order, and with agreement of the advocate, that one receipt for all rent paid and one for the security and pet damage deposits will suffice.

Conclusion

The Notice to End Tenancy of July 15, 2012 is upheld.

The landlord is ordered to issue receipts for all rent paid to date and for security and pet damage deposits.

The balance of the tenant's application is set for hearing on September 24, 2012.

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: August 08, 2012.

Residential Tenancy Branch