



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes Tenant: CNC, MNDC, OLC, FF
Landlord: OPC, FF

Introduction

This hearing dealt with cross applications for Dispute Resolution filed by both the Landlords and the Tenants.

The Landlords filed seeking an Order of Possession to end the tenancy and to recover the filing fee for this proceeding.

The Tenants filed to obtain an order to cancel the Notice to End Tenancy, for compensation for loss or damage under the Act, regulations or tenancy agreement, for the Landlord to Comply with the Act and to recover the filing fee for this proceeding.

Service of the hearing documents by the Landlords to the Tenants were done by registered mail on August 23, 2012 in accordance with section 89 of the Act.

Service of the hearing documents by the Tenants to the Landlords were done by personal delivery on August 24, 2012 in accordance with section 89 of the Act.

Both parties confirmed the receipt of the other parties' hearing package.

At the start of the Hearing the Dispute Resolution Officer informed the Parties that the hearing will deal with the Landlords' application to end the tenancy and the Tenants' application to contest a Notice to End Tenancy for Cause. In section 2.3 of the Residential Tenancy Branch Rules of Procedure (Dismissing unrelated disputes in a single application) a Dispute Resolution Officer may dismiss unrelated disputes within an application.

The Tenants applications for monetary compensation for damage or loss and for the Landlord to comply with the Act are separate and unrelated disputes to this application and are dismissed with leave to reapply.

Issues(s) to be Decided

Landlords:

1. Are the Landlords entitled to end the tenancy?

Tenants:

1. Are the Tenants entitled to an order to cancel the Notice to End Tenancy?

Background and Evidence

This tenancy started on July 1, 2012 as a fixed term tenancy with an expiry date of June 30, 2013. Rent is \$975.00 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$487.50 on June 27, 2012.

The Landlord said she served the Tenant with a 1 Month Notice to End Tenancy for Cause dated August 23, 2012 by registered mail on August 23, 2012. The Effective Vacancy Date on the Notice is September 30, 2012. The Tenant is living in the unit and the Landlord and Owner said they issued the Notice to End Tenancy because they believed the Tenants were unhappy living in the building and this was a way to end the tenancy.

The Landlord said the reasons on the 1 Month Notice to End Tenancy are that the Tenants have engaged in illegal activity that has or is likely to adversely affected the quiet enjoyment, security, safety or well being of another occupant or the Landlord, the Tenants have caused extraordinary damage to the unit or site and the Tenants have not done repairs resulting from the damage to the unit or site.

The Landlord said the Tenants and the Landlord had a good relationship in a prior tenancy in the rental complex, but issues have resulted from damage to the previous unit and the return of the Tenants' security deposit in that tenancy. The Landlord said it resulted in the Tenants yelling at her and abusing the Landlord in front of other tenants in the building. As a result the Landlord said they issued the Notice to End Tenancy for Cause.

The Landlord continued to say that there is no damage to this unit and there are no repairs that the Tenants are responsible for in this unit. The Landlord said they thought there was damage to the unit, but on inspection of the rental unit no damage was found.

The Tenant said the Landlord's claims are untrue and she made the following statements regarding each of the points the Landlord made:

- 1). The Landlord's have not issued a warning letter or notice to the Tenants about their conduct in the rental complex and although they did have a confrontation with the Landlord, the Landlord did not take any action except to

issue a Notice to End the Tenancy. The Tenant said she hopes to continue the tenancy and to establish a better way to communicate with the Landlord and Owner if problems arise again.

2). The Tenant said there is no damage to this rental unit therefore it is not a reason to evict the Tenants.

3). The Tenant continued to say as there is no damage to the rental unit therefore there are no repairs that need to be done by the Tenant. The Tenant said this is not a reason to evict the Tenants.

The Landlord agreed that no warnings or notices have been issued to the Tenants and there are no witnesses to testify about the Tenants do anything illegal that would adverse effect other tenants or the landlord and there is no damage to the rental unit.

Both the parties agreed that if the tenancy is going to continue better communications are needed to make things work. The Parties informally agreed:

1. Tenancy issues would be discussed in the Landlord's office.
2. The female Tenant will represent the Tenants
3. Both the Landlord and the Owner will represent the Landlord.
4. The male Tenant will not participate in tenancy issue discussions at the present time.

Analysis

It is apparent from the testimony and evidence that there are issues between the Tenants and the Landlords. During the Landlord's testimony the Landlord said there is no damage to the unit, no repairs are required and there is no evidence of illegal activity that would adversely affect the quiet enjoyment, security, safety or physical well-being of the landlord or other tenants in the building. Consequently the Landlord has not established grounds to support the Notice to End Tenancy for Cause. I dismiss the Landlord's application without leave to reapply.

Further I grant the Tenants request for an Order to Cancel the Notice to End Tenancy for Cause dated August 23, 2012 issued by the Landlord as the Landlord has not proven their claims.

Further, I find the Tenants monetary claim to be an unrelated dispute to the Notice to End Tenancy therefore; I dismissed those claims with leave to reapply. Section 2.3 of the Residential Tenancy Branch Rules of Procedure (Dismissing unrelated disputes in a single application) allows a Dispute Resolution Officer to dismiss unrelated disputes within an application.

As the Tenant has been successful in this matter I order the Tenant to recover the \$50.00 filing fee for this proceeding by deducting it from the November, 2012 rent. The November 2012 rent is adjusted to \$925.00.

As the Landlord has been unsuccessful in this matter I order the Landlord to bear the cost of the filing fee of \$50.00 which they have already paid.

Conclusion

I order the 1 Month Notice to End Tenancy for Cause dated August 23, 2012 to be cancelled and the tenancy is ordered to continue as set out in the Tenancy Agreement.

The Tenants November, 2012 rent payment is adjusted to \$925.00 so that the Tenant can recover the filing fee of \$50.00 for this proceeding from the Landlord.

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*.

Residential Tenancy Branch