



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC LAT RR FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Tenant to cancel a Notice to end tenancy issued for cause and to obtain Orders to authorize the Tenant to change the locks to the rental unit, to allow the Tenant reduced rent for repairs, services, or facilities agreed upon but not provided, and to recover the cost of the filing fee from the Landlords for this application.

The parties appeared at the teleconference hearing, acknowledged receipt of evidence submitted by the other and gave affirmed testimony. At the outset of the hearing I explained how the hearing would proceed and the expectations for conduct during the hearing, in accordance with the Rules of Procedure. Each party was provided an opportunity to ask questions about the process however each declined and acknowledged that they understood how the conference would proceed.

During the hearing each party was given the opportunity to provide their evidence orally and respond to each other's testimony. A summary of the testimony is provided below and includes only that which is relevant to the matters before me.

Issue(s) to be Decided

1. Should the Notice to end tenancy issued September 16, 2012 be cancelled?
2. Should the Tenant's rent be reduced?
3. Should the Tenant be allowed to change the locks to the rental unit?

Background and Evidence

The parties affirmed that the rental unit is located in a house which consists of two separate suites. The Tenant began her verbal tenancy on June 1, 2010 and is occupying the suite in the basement. Her tenancy agreement requires that she pay rent of \$750.00 on the last day of each month. The rent payment is inclusive of all utilities and is issued directly to the Landlords.

After a brief discussion the Landlords confirmed that the upstairs tenants have no authority to act as their Agents. That being said, one of the upstairs tenants is a co-worker of the female Landlord so in the past the upstairs tenant would deliver the rent payments to the Landlord at their work as it was convenient for all parties.

The Landlords submitted that on September 16, 2012 they posted a 1 Month Notice to end tenancy for cause to the Tenant's door because the upstairs tenants complained that the Tenant was harassing and bothering them with numerous text messages, letters, and e-mails. The Landlords confirmed they have had no contact or communication with the Tenant regarding these issues prior to issuing the 1 Month Notice. They issued the Notice based solely on what the upstairs tenants told them.

The parties confirmed that the lock on the interior door is a door handle lock that has a hole in the handle which allows it to be unlocked from the common area. The Tenant has alleged that the upstairs tenants have unlocked this door and have entered her suite without permission.

The parties also confirmed that the Landlords have not provided a washer and dryer and that the existing washer and dryer are the property of the upstairs tenants. The Tenant confirmed she was seeking reduced rent as the upstairs tenants have denied her access to the washer and dryer.

The Tenant confirmed that Canada Post delivers the mail to a shared unlocked mailbox located at the rental property and she picks up her own mail out of the box. A discussion followed whereby I informed the parties that there was insufficient evidence to warrant changing the current situation with the mail delivery. However, I did inform the parties that tampering with someone's mail delivery would be a Federal offence so if there were problems of this nature in the future the Landlords should attend to the problem forthwith.

At the conclusion of the hearing I issued a verbal Order to have the Landlords install a secure lock on the Tenant's interior door to prevent the upstairs tenants from gaining access to her unit.

A discussion followed whereby the parties agreed to meet at the rental unit on Monday October 8, 2012 at 3:00 p.m. at which time the Landlords will install a new lock and the Tenant will provide the Landlords with post dated cheques for rent.

Analysis

Upon review of the 1 Month Notice to End Tenancy, I find the Notice to be completed in accordance with the requirements of section 52 of the Act and I find that it was served upon the Tenant in a manner that complies with section 89 of the Act.

The Notice was issued pursuant to Section 47(1) of the Act for the following reasons:

- *Tenant or a person permitted on the property by the tenant has:*
 - *Significantly interfered with or unreasonable disturbed another occupant or the landlord*

When considering a 1 Month Notice to End Tenancy for Cause the Landlord has the burden to provide sufficient evidence to establish the reasons for issuing the Notice to End Tenancy.

In this case the Landlords have attempted to end this tenancy based solely on the upstairs tenants' complaints. The Landlord has made no effort to discuss the situation with the downstairs Tenant nor have they attempted to mediate the situation.

Based on the aforementioned I find that the Landlord has not succeeded in meeting the burden of proof for ending the tenancy based on the issuance of the 1 Month Notice to End Tenancy dated September 16, 2012, and I therefore cancel the Notice.

Section 32 of the *Act* provides that a landlord **must** provide and maintain residential property in a state of decoration and repair that complies with health, safety and housing standards required by law.

Neither party disputes that the Tenants' interior door leading into the common area has a door handle lock with a hole which is easy to unlock. Therefore, as provided in my verbal Order and agreed upon during the hearing, I Order the Landlords to have a security lock installed no later than **October 8, 2012**.

Section 27 of the *Act* stipulates that a landlord must not terminate or restrict a service or facility if that service or facility is essential to the tenant's use of the rental unit as living accommodation or providing the service or facility is a material term of the tenancy agreement.

If the landlord terminates or restricts a service or facility, other than one that is essential or a material term of a tenancy the landlord must provide 30 days notice and reduce the rent in an amount that is equivalent to the reduction in the value of the tenancy.

Although the Tenant had applied for a rent reduction based on Section 27, I find they have made their claim based on laundry services that are owned and were previously provided by the upstairs tenants and not the landlords. Therefore, this matter is a civil matter and not one that is covered by the *Residential Tenancy Act*. Accordingly this request is dismissed.

The Tenant has primarily been successful with her application, therefore I award her recovery of the **\$50.00** filing fee.

I have included with my decision a copy of "A Guide for Landlords and Tenants in British Columbia" and I encourage the parties to familiarize themselves with their rights and responsibilities as set forth under the *Residential Tenancy Act*.

Conclusion

The 1 Month Notice to end tenancy issued September 16, 2012, is HEREBY CANCELLED and is of no force or effect.

The Tenant has been award a monetary order in the amount of **\$50.00**. This Order is legally binding and must be served upon the Landlords.

The Landlords are HEREBY ORDERED to install a secure lock on the Tenant's interior door no later than **October 8, 2012**. The Landlords are also Ordered to inform their upstairs tenants, in writing, not to attempt to access the Tenant's rental unit.

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: October 05, 2012.

Residential Tenancy Branch