



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, FF

Introduction

A substantial amount of documentary evidence, photo evidence, and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

Issue(s) to be Decided

This is a request to cancel a Notice to End Tenancy that was given for cause, and a request for recovery of the filing fee.

Background and Evidence

On October 5, 2012 the landlords gave the tenants a one month Notice to End Tenancy stating the following reasons:

- Breach of the material term of a tenancy agreement that was not corrected within a reasonable time after written notice to do so.
- Tenant or person permitted on the property by the tenant has:
 - Significantly interfered with or unreasonably disturbed another occupant or the landlord.
 - Seriously jeopardize the health or safety or lawful right of another occupant or the landlord.
 - Put the landlords property at significant risk

Breach of a material term

The landlords testified that:

- In section 9 of the tenancy agreement it states “any alterations or additions or improvements to the exterior of the tenants home or to the site require the prior written approval of the landlord as well as any permits required by the municipal authority. This is a material term of the tenancy agreement.
- In this case the tenants have made improvements to the exterior of their home without getting the prior written approval of the landlords, and without even applying for approval.
- They as landlords have sent two letters to the tenants requesting that they rectify the breach, however to date nothing has been done.
- They therefore believe that this Notice to End Tenancy should be upheld and that an Order of Possession should be issued.

The tenants testified that:

- They have not built any additions to the rental unit; they have just enclosed the deck area by putting in windows, a door, and siding.
- The deck already existed, and is not an addition.
- This is not an extension of the living space, and has not even been wired.
- They did not get the landlords permission prior to closing in the deck, however the work was completed before they got the letters from the landlords.
- They have done nothing further since receiving the letters from the landlord; however they have not removed the enclosure either.

Analysis

It is my finding that the tenants have breached a material term of the tenancy agreement by doing alterations/improvements to the exterior of their home without first getting the written permission from the landlords to do so. In fact they never even applied for permission from the landlords to do the alterations/improvements, even though the tenancy agreement specifically states that prior approval is required.

The landlord has sent two breach letters to the tenants requesting that they rectify the breach, however to date the tenants have failed to rectify the breach, even though a significant amount of time has passed.

Therefore since the tenants have breached a material term of the tenancy agreement and not corrected the breach within a reasonable time after written notice to do so, I will not set aside this Notice to End Tenancy and the tenancy ends pursuant to that notice.

Having upheld the Notice to End Tenancy for Breach of a Material Term, there is no need for me to deal with the other reasons given for ending this tenancy.

Conclusion

The tenant's application is dismissed without leave to reapply and at the request of the landlord I have issued an Order of Possession for 1:00 PM on December 31, 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 *Manufactured Home Park Tenancy Act*.

Dated: November 15, 2012.

Residential Tenancy Branch