



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNC, FF, LAT, LRE

Introduction

A hearing was conducted by conference call in the presence of the applicant and in the absence of the respondent although duly served. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Further I find that the Application for Dispute Resolution/Notice of Hearing was sufficiently served on the Landlord by mailing, by registered mail to where the landlord resides on May 4, 2013. With respect to each of the applicant's claims I find as follows:

Issues to be Decided

The issues to be decided are as follows:

- a. Whether the tenant is entitled to an order cancelling the Notice to End Tenancy dated April 28, 2013?
- b. Whether the tenant is entitled to an order suspending or setting conditions on the landlord's right to enter the rental unit?
- c. Whether the tenant is entitled to an order authorizing the tenant to change the locks?
- d. Whether the tenant is entitled to recover the cost of the filing fee?

Background and Evidence:

The tenancy began on September 1, 2011. The tenancy agreement provided that the tenant(s) would pay rent of \$1000 per month payable on the first day of each month. The tenant(s) paid a security deposit of \$500 at the start of the tenancy.

Grounds for Termination

The tenant failed to provide a copy of the the Notice to End Tenancy. However, he testified the grounds set out in the Notice are as follows:

Landlord's notice: cause

47 (1) A landlord may end a tenancy by giving notice to end the tenancy if one or more of the following applies:

....

- (b) the tenant is repeatedly late paying rent;
- (c) there are an unreasonable number of occupants in a rental unit;
- (d) the tenant or a person permitted on the residential property by the tenant has
 - (i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property,
 - (ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant, or
 - (iii) put the landlord's property at significant risk;

Analysis

The landlord has the burden of proof to establish sufficient grounds to end the tenancy. The landlord failed to attend the hearing and failed to provide evidence to support the grounds set out in the Notice. The tenant denied there was any basis for the eviction notice. In the absence of any evidence from the landlord I determined the landlord has failed to establish sufficient grounds to end the tenancy. **As a result I ordered that the Notice to End Tenancy dated April 28, 2013 be cancelled.** The tenancy shall continue with the rights and obligations of the parties remaining unchanged.

The Application for Dispute Resolution seeks an order suspending or setting conditions of the landlord's right to enter the rental unit and an order authorizing the tenant to change the locks. The tenant testified on several occasions the landlord has entered his rental unit without giving notice or getting the tenant's permission. The tenant also testified that the landlord has refrained from these entries as of late. I determined it was not appropriate to make such an order at this time. However, I have attached a copy of the provisions of the Residential Tenancy Act. If the landlord resumes unauthorized

entry the tenant has liberty to file a new application. Attached is the relevant provisions of the Residential Tenancy Act.

Landlord's right to enter rental unit restricted

29 (1) A landlord must not enter a rental unit that is subject to a tenancy agreement for any purpose unless one of the following applies:

- (a) the tenant gives permission at the time of the entry or not more than 30 days before the entry;
- (b) at least 24 hours and not more than 30 days before the entry, the landlord gives the tenant written notice that includes the following information:
 - (i) the purpose for entering, which must be reasonable;
 - (ii) the date and the time of the entry, which must be between 8 a.m. and 9 p.m. unless the tenant otherwise agrees;
- (c) the landlord provides housekeeping or related services under the terms of a written tenancy agreement and the entry is for that purpose and in accordance with those terms;
- (d) the landlord has an order of the director authorizing the entry;
- (e) the tenant has abandoned the rental unit;
- (f) an emergency exists and the entry is necessary to protect life or property.

(2) A landlord may inspect a rental unit monthly in accordance with subsection (1) (b).

The Tenant has been successful with his application to cancel the Notice to End Tenancy. **As a result I ordered the landlord to reimburse to the tenant the cost of the filing fee in the sum of \$50 such sum may be deducted from future rent.**

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: May 29, 2013

Residential Tenancy Branch