



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, MNDC, OLC, PSF, RR, FF

Introduction

This hearing dealt with the tenant's Application for Dispute Resolution seeking to cancel a notice to end tenancy; an order to have the landlord provide services and facilities; a rent reduction; and a monetary order. The hearing was conducted via teleconference and was attended by the tenant and the landlord.

The tenant's original Application did not include that she was seeking to cancel a notice to end tenancy. However, the tenant submits that she did provide an amended Application to both the landlord and the Residential Tenancy Branch (RTB). The landlord acknowledges receipt of an Application indicating the tenant was seeking to cancel the notice and that he was prepared to present his evidence in regard to the notice. I amend the tenant's Application to include seeking to cancel the notice to end tenancy for cause.

While the tenant's original Application was seeking to have the landlord provide services and facilities; a rent reduction and a monetary order for these services and facilities and the entire hearing time was taken up dealing solely with the tenant's amended Application seeking to cancel a notice to end tenancy, I find that the issues related to services and facilities are unrelated. Therefore and in accordance with Section 2.3 of the Residential Tenancy Branch Rules of Procedure I dismiss the remaining items with leave for the tenant to reapply.

During the hearing, the landlord did not verbally request an order of possession should the tenant be unsuccessful in her Application.

Issue(s) to be Decided

The issues to be decided are whether the tenant is entitled to cancel a 1 Month Notice to End Tenancy for Cause and to recover the filing fee from the landlord for the cost of

the Application for Dispute Resolution, pursuant to Sections 47, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The landlord provided a copy of a tenancy agreement signed by the parties on March 16, 2012 for a month to month tenancy beginning on April 2, 2012 for a monthly rent of \$750.00 due on the 1st of each month with a security deposit of 375.00 paid. The parties agree the tenancy actually began prior to this tenancy agreement when the property was owned by a previous owner.

Both parties provided a copy of a 1 Month Notice to End Tenancy for Cause issued by the landlord on April 29, 2013 with an effective vacancy date of May 31, 2013 citing the tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord; seriously jeopardized the health or safety or lawful right of another occupant or the landlord; and the tenant has not done required repairs to damage to the unit.

The landlord submits the tenant has failed to make repairs in regard to picking up her dog's feces from the residential property in a timely manner and repairing or replacing blinds in the rental unit that have been damaged by her dogs.

The landlord asserts that the issue of dog feces was addressed immediately upon his possession of the property where he informed the tenant that she must clean up any feces within a reasonable time after the dogs of been outside. That she continues to not follow through with this despite his attempts at encouragement.

The tenant provided, as evidence, 3 letters from the landlord providing a warning that the tenant must clean her dog's feces within a reasonable time, there is no indication of what consequences will be incurred. Two of the letters are dated April 27, 2013 with one regarding an incident on April 26, 2013 and one on April 27, 2013 and the third letter is dated April 28, 2013 for an occurrence on April 28, 2013.

The landlord asserts the tenant has failed to repair blinds in the rental unit despite requests from the previous owner and himself. Neither party has provided any documentary evidence of requests from either landlord to do so. The tenant submits the previous landlord indicated she could replace the blinds at the end of the tenancy.

The landlord submits that the tenant's refusal to provide confirmation of storage insurance for an unlicensed vehicle she stores on the property has put his insurance coverage in jeopardy. While the landlord has submitted into evidence a copy of his insurance he has not provided any documentary evidence supporting his position that his insurance is in jeopardy.

The landlord submits the tenant is "repeatedly harassing" him over the issue of parking. The landlord states that once he informed the tenant of his decision regarding her request on parking changes she has not dropped the subject. The landlord also submits that the tenant has also started parking in front of the other tenant's door in retaliation.

In her written statement the other tenant states that she reported the parking problem to the landlord after about a week. There is no indication in the written submissions or the testimony of the landlord that the tenant continues to park blocking the other tenant's entry to her rental unit.

The landlord also seeks to end the tenancy because the tenant disturbs other tenants on the residential property. He submits that the tenant has unreasonably disturbed another tenant on the property in regard to parking and the feeding of ducks on her own deck. The other tenant has provided a written statement of her concerns and seeks to not be bothered by this tenant.

The tenant disputes that she has bothered the other tenant but that she had merely sent her one text regarding feeding ducks and how the feed she uses may have an impact on her dogs because they will eat the food that is left out for the ducks.

In addition a third tenant (and the landlord's fiancé) also complains, in a written statement about the tenant's behaviour in regard to the issues raised by the landlord and goes on to say that the tenant also makes her feel uncomfortable and that she is aggressive and unpredictable. This complaint does not provide any examples of problem behaviours.

Analysis

Section 47 of the *Act* allows a landlord to end a tenancy by giving notice to end the tenancy if one or more of the following applies:

- a) 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
- b) The tenant does not repair damage to the rental unit or other residential property, as required under section 32(3), within a reasonable time;

Based on the evidence and testimony before me, I accept that the landlord has established the tenant has not been cleaning her dog's feces up from the yard in a timely fashion. However, I find that until the three days preceding the issuance of the 1 Month Notice the landlord had not provided written warning to the tenant. I also note that even though the landlord did warn the tenant about failure to clean up after her dogs, the notification does not include any description of consequences for failing to clean up.

The landlord has failed to provide sufficient evidence that he or the previous landlord had requested repairs to the blinds and as such, I find the landlord cannot establish this as a cause to end the tenancy.

While I accept the tenant has failed to provide evidence to establish that she has storage insurance, I find the landlord has failed to provide evidence that the tenant's failure to provide this evidence would impact his own insurance. As such, I find the landlord cannot rely on this to end the tenancy.

In the absence of direct witness testimony and faced with the tenant's position that she has not been disturbing other tenants or the landlord I find the landlord has failed to provide sufficient evidence that the tenant has been unreasonably disturbing other occupants of the residential property.

The fact that the landlord and tenant disagree on issues the tenant has raised and that the tenant continues to wish to pursue them is a part of the landlord/tenant relationship and based on the testimony provided by both parties I find the landlord has failed to establish unreasonable disturbance by the tenant toward the landlord.

However, I do caution the tenant that repeated and continued raising of the same issue once it has been resolved may constitute unreasonable disturbance of a landlord. If an issue has been raised by the tenant and dealt with by the landlord it must be considered resolved by both parties, unless one of the parties decides to pursue resolution through dispute resolution processes provided by the Residential Tenancy Branch.

I also caution the tenant that in relation to the dog feces; provision of insurance documents and the unreasonable disturbances to other occupants the only reason I have the landlord has failed to establish this as cause to end the tenancy is because the landlord had failed to provide evidence that he had informed the tenant of the seriousness of the offences and that they could result in ending the tenancy.

As such, the tenant should consider herself, now sufficiently warned of the importance of these issues and that the landlord may issue a new notice to end tenancy for cause should the tenant fail to observe these requirements.

Conclusion

Based on the above, I cancel the 1 Month Notice to End Tenancy for Cause issued by the landlord on April 29, 2013 and find the tenancy in full force and effect.

I find the tenant is entitled to monetary compensation pursuant to Section 67 in the amount of **\$50.00** comprised of the fee paid by the tenant for this application. I order the tenant may deduct this amount from a future rent payment in accordance with Section 72(2)(a).

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 27, 2013

Residential Tenancy Branch

