



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, MNDC, O

Introduction

This hearing dealt with the tenants' Application for Dispute Resolution seeking to cancel a notice to end tenancy and a monetary order. The hearing was conducted via teleconference and was attended by the female tenant and the landlord. While the landlord had arranged for a witness she did not call the witness to provide any testimony.

During the hearing, the landlord did not verbally request an order of possession should the tenants be unsuccessful in the portion of their Application seeking to cancel the notice to end tenancy.

Issue(s) to be Decided

The issues to be decided are whether the tenants are entitled to cancel a 1 Month Notice to End Tenancy for Cause and to a monetary order for compensation for damage or loss, pursuant to Sections 47, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The parties agree the tenancy began in August 2012 as a month to month tenancy for the monthly rent of \$950.00 due on the 1st of each month. The parties also agree the landlord issued a 1 Month Notice to End Tenancy for Cause on 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 put the landlord's property at significant risk.

The landlord testified that as a result of the location of the residential property they must be vigilant in regard to rodent problems and that over the winter since these tenants moved in there was a rodent problem. The landlord testified there are currently no more rodents. The landlord testified that she had completed an inspection of the rental unit in December 2012 and gave the tenants direction to clean things up by the middle of January 2013 or that failure to do so may result in the landlord seeking to end the tenancy.

The landlord testified she provided this warning to the tenants in writing, but she did not provide a copy of this warning in her evidence. The tenant testified the landlord did not inspect the rental unit in December 2012 or issue any kind of warning either written or verbal.

The parties do agree the landlord did inspect the rental unit on May 26, 2013 and that based on that inspection the landlord issued the 1 Month Notice to End Tenancy for Cause.

The landlord submits that the rodent problem over the winter was because of the hoarding practices of the tenant, thus putting the landlord's property at significant risk. The landlord provided no evidence or testimony regarding any interference or disturbances caused by the tenants or regarding how the tenants' activities have jeopardized the health, safety or lawful right of another occupant or the landlord.

The tenant seeks compensation in the amount of \$200.00 for the landlord's failure to provide adequate heating throughout the year. The landlord testified that she keeps the temperature at a constant setting of 72 degrees.

The tenant submits that sometimes the temperature in the rental unit is too cold and sometimes it is too hot and that when the landlord goes away there is no one who can adjust the temperature. She states that when she has asked the landlord, in the past, to increase the temperature she has been told that the landlord will not increase the temperature as long as the tenant leaves windows opened in the rental unit.

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
 - iii. Put the landlord's property at significant risk;

From the landlord's evidence I find that the landlord has failed to provide any evidence that the tenants have significantly interfered with or unreasonably disturbed anyone or despite the female tenant's habit of hoarding that they have seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant. In relation to the landlord's claim that the tenants' activities have caused the landlord's property to be at significant risk, I note the landlord states there was a rodent problem in the winter months but not now and yet she based the 1 Month Notice, in part on the

tenants' practice of hoarding and attracting rodents. I find that it is unlikely that the tenants' practice causes an infestation of rodents only in winter.

In addition, I find that since the tenant disputes the landlord's testimony that an inspection was completed in December 2012 and that the landlord provided a warning to the tenant and since the landlord has provided no evidence to corroborate her testimony, I find the landlord has failed to establish that she had adequately warned the tenants that failure to clean up their rental unit would result in ending the tenancy.

Therefore I find the landlord has failed to establish sufficient cause to end the tenancy, however, I caution the tenants that they should consider the issuance of this Notice as notification of the landlord's intent to end the tenancy should the tenants not clean up their rental unit.

To be successful in a claim for compensation for damage or loss the applicant has the burden to provide sufficient evidence to establish the following four points:

1. That a damage or loss exists;
2. That the damage or loss results from a violation of the *Act*, regulation or tenancy agreement;
3. The value of the damage or loss; **and**
4. Steps taken, if any, to mitigate the damage or loss.

In the case before me, I find the tenant has failed to provide any evidence to corroborate her claim that the landlord has failed to provide adequate heating for the rental unit or any violation of the landlord's obligations under the *Act* regarding the provision of a rental unit that is suitable for occupancy.

Conclusion

For the reasons noted above I grant the tenant's Application to cancel the 1 Month Notice to End Tenancy for Cause issued on May 31, 2013 and I dismiss the tenants' Application for a monetary order.

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: July 08, 2013

Residential Tenancy Branch

