



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Crossroads Enterprises Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

CNC, AAT, FF

Introduction

This hearing was convened in response to the Tenant's Application for Dispute Resolution, in which the Tenant applied to set aside a Notice to End Tenancy for Cause; for an order allowing the Tenant and guests of the Tenant access to the unit/site; and to recover the fee for filing this Application for Dispute Resolution.

The Tenant stated that the Application for Dispute Resolution, the Notice of Hearing, and evidence the Tenant wishes to rely upon as evidence was served to the Landlord, via registered mail, on September 30, 2013. The Tenant submitted a copy of a Canada Post Receipt, with a tracking number, which corroborates this testimony. The Advocate for the Tenant stated that the Canada Post website shows that this package was signed for by the individual named as a Landlord on this Application for Dispute Resolution on October 04, 2013. On the basis of this evidence and in the absence of evidence to the contrary, I find that the Landlord was served with these documents, although the Landlord was not represented at the hearing.

Issue(s) to be Decided

Should the Notice to End Tenancy for Cause, served pursuant to section 47 of the *Residential Tenancy Act (Act)*, be set aside and is there a need to order the Landlord to provide the Tenant and/or a guest of the Tenant with access to the rental unit?

Background and Evidence

The female Tenant stated that a One Month Notice to End Tenancy for Cause was personally served to her on September 16, 2013, which declared that the Tenant must vacate the rental unit by October 16, 2013. The reasons stated for ending the tenancy on the Notice to End Tenancy were that the Tenant has allowed an unreasonable number of occupants in the unit; that the Tenant or a person permitted on the property by the Tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord; that the Tenant or a person permitted on the property by the Tenant has seriously jeopardized the health or safety or lawful interest of another

occupant or the landlord; that the Tenant has engaged in illegal activity that has, or is likely to, adversely affect the quiet enjoyment, security, safety or well-being of another occupant; and that the Tenant has breached a material term of the tenancy that was not corrected within a reasonable time.

The Tenant and the Respondent both deny the allegations made by the Landlord in the Notice to End Tenancy.

The Advocate stated that the Landlord's father regularly questions people who enter the lobby, some of which are guests of the Tenant, and asks them who they intend to visit and how long they intend to stay. The advocate contends that this interferes with the Tenant's right to the quiet enjoyment of the rental unit and is a breach of section of 30(1)(b) of the *Act*. The Tenant is seeking an order requiring the Landlord to comply with the *Act* in regards to these issues.

Analysis

As the Tenant and the Respondent both deny the allegations made in the One Month Notice to End Tenancy that was served to the Tenant on September 24, 2013 and the Landlord has not attended the hearing in support of the Notice to End Tenancy, I find that the Landlord has failed to establish that there are grounds to end this tenancy in accordance with section 47 of the *Residential Tenancy Act (Act)*. As the Landlord has failed to establish that there are grounds to end this tenancy in accordance with section 47 of the *Act*, I grant the Tenant's application to set aside the One Month Notice to End Tenancy that was served on September 24, 2013.

On the basis of the undisputed evidence, I find that the Landlord's father may be infringing on the Tenant's right to the quiet enjoyment of the rental unit and that the Landlord's father may be breaching section 30(1) of the *Act*. I therefore order the Landlord to ensure that he, and anyone who is acting on his behalf, does not unreasonably disturb the Tenant and or a guest of the Tenant by questioning the Tenant's guest(s), without reasonable grounds.

For the benefit of all parties and to provide some clarity to this issue, section 28 of the *Act* reads:

A tenant is entitled to quiet enjoyment including, but not limited to, rights to the following:

- (a) reasonable privacy;
- (b) freedom from unreasonable disturbance;
- (c) exclusive possession of the rental unit subject only to the landlord's right to enter the rental unit in accordance with section 29 [landlord's right to enter rental unit restricted];

(d) use of common areas for reasonable and lawful purposes, free from significant interference.

For the benefit of all parties and to provide some clarity to this issue, section 30(1) of the *Act* reads:

A landlord must not unreasonably restrict access to residential property by

- (a) the tenant of a rental unit that is part of the residential property, or
- (b) a person permitted on the residential property by that tenant.

I find that the Tenant's Application for Dispute Resolution has merit and that the Tenant is entitled to recover the fee for filing this Application.

Conclusion

Pursuant to section 72(2) of the *Act*, I authorize the Tenant to deduct \$50.00 from one monthly rent payment, as compensation for the fee paid for filing this Application for Dispute Resolution.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*.

Dated: November 05, 2013

Residential Tenancy Branch

