



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Royal Tower Apartments Corp.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC, RP, FF

Introduction

This hearing dealt with the tenant's Application for Dispute Resolution seeking to cancel a notice to end tenancy and an order to have the landlord complete repairs.

The hearing was conducted via teleconference and was attended by the tenant and the landlord's agent. At the outset of the hearing the landlord's agent identified that she had witnesses available. The witnesses were never called to provide testimony.

Through out the hearing the landlord referred to evidence and events that had occurred in a local bar that are unrelated to the issues noted in the Notice to End Tenancy I advised both parties that I would not be considering this evidence.

During the hearing, the landlord did not verbally request an order of possession should the tenant be unsuccessful in his 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; to an order to have the landlord complete repairs; and to recover the filing fee from the landlord for the cost of the Application for Dispute Resolution, pursuant to Sections 32, 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 June 15, 2012 for a 6 month fixed term tenancy beginning on July 1, 2012 that converted to a month to month tenancy on January 1, 2013 for the monthly rent of \$675.00 due on the 1st of each month with a security deposit of \$337.50 paid.

The tenant provided into evidence a copy of a 1 Month Notice to End Tenancy for Cause issued by the landlord on December 17, 2013 with an effective vacancy date of January 31, 2014 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.

The landlord submits that in the summer of 2013 she had an incident with the tenant where she had informed him that he was not allowed to have a dog in the rental unit after she had learned he had one. The landlord submits that the tenant was very aggressive towards her outside of a local store in regard to the information the landlord had provided that he could have a dog, as per his tenancy agreement.

The landlord also submits that on the night of December 13, 2013 the tenant repeatedly called one of the landlord's agents between 10:00 p.m. and midnight and left several voice messages (recordings provided into evidence). A written statement from this agent was submitted into evidence.

Despite raising several issues in the voice messages the main issue of concern for the tenant was difficulty with the hot water available while the landlord was installing a new hot water system. The tenant submits that he has a medical condition that requires him to have access to a reliable hot water system and he became frustrated.

The parties agree the tenant also attended the local bar also on the night of December 13, 2013 where the landlord's agents were attending a private party. The landlord submits that the tenant was very aggressive and threatening. The tenant denies that he was threatening.

The landlord's agent states that he interacted with her and another agent about matters that either could have been dealt with by using the afterhours contact information that is available to all tenants and not interfering with the agents on their own personal time.

The tenant also seeks an order to have the landlord complete the following repairs:

1. No central heat – contrary to local bylaws;
2. Mice;
3. Bed bugs;
4. Sporadic hot water; and
5. Access door buzzer is crossed with another rental unit.

The landlord testified that they are currently working with the city and health authority to develop a plan to upgrade heating in all of the rental units on the residential property but that currently some units do not yet have permanent solutions. The landlord submits that they must have a plan submitted to the city and health authority by the end of January 2014 that works towards compliance.

The landlord acknowledges that they have a mouse problem and they are actively trapping and monitoring the situation on a constant basis. She submits they have a person responsible for this management and as of this week they had the lowest number of mice caught to date.

The landlord submits that as soon as the tenant identified a bed bug problem they arranged for treatment and the tenant confirms that the treatment has so far been effective.

As noted above, the landlord had been in the process of updating their hot water system and despite having some glitches to work out the parties agree there is no longer an issue with the hot water being delivered to the tenant's rental unit.

The landlord explained that the access "buzzer" system is set up with individual codes that are different than the rental unit number. In this case with the tenant's rental unit being 420 his access code is 1424 and the tenant in unit 424 has an access code of 1420. As such, the landlord submits that while the codes may appear to be based on the unit number they are not and therefore the access buzzer codes are not "crossed" as suggested by the tenant.

Analysis

Section 47 of the *Act* allows a landlord to end a tenancy by giving notice to end the tenancy if the tenant or a person permitted on the residential property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property.

I find, in support of the tenant's position, that there is insufficient evidence that the tenant acted in a threatening manner. However, the threshold to establish this cause under Section 47 is not related to threatening behaviour but rather to unreasonable disturbance or significant interference on the part of the tenant.

I find the landlord has provided sufficient evidence to establish that tenant has unreasonably disturbed the landlord. I find that the tenant's actions of repeated late phone messages left for one of the landlord's agents who were not on duty at the time and the tenant attending the agents' private function to discuss tenancy related matters is an unreasonable disturbance sufficient to allow the landlord to end the tenancy.

However, in this case I find that while the landlord has testified that there have been two incidents on record I note that the landlord has never provided the tenant with a written warning the his behaviour was out of line or the consequences he would face should he continue the behaviour.

As such, I grant the portion of the tenant's Application seeking to cancel the notice to end tenancy. I do caution the tenant that he should now consider himself sufficiently warned by the landlord that the behaviour exhibited towards the landlord's agent in the summer of 2013 and on December 13, 2013 is not acceptable behaviour and a further incident may give the landlord sufficient cause to end the tenancy.

As to portion of the tenant's Application seeking an order to have the landlord complete repairs I am satisfied that all complaints have been or are currently being sufficiently responded to and there is no need to order the landlord to complete any repairs, at this time.

Conclusion

As per the above, I cancel the 1 Month Notice to End Tenancy for Cause issued by the landlord on December 17, 2013 and I find the tenancy will remain in full force and effect.

I find the tenant is entitled to monetary compensation pursuant to Section 67 in the amount of **\$25.00** comprised of half the amount the \$50.00 fee paid by the tenant for this application, as he was only partially successful in his Application. I order the tenant may deduct this amount from a future rent payment pursuant to 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: January 17, 2014

Residential Tenancy Branch

