



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, MNDC, RP, FF

Introduction

This matter dealt with an application by the Tenant to cancel a Notice to End Tenancy for Cause, for loss or damage under the Act, regulations or tenancy agreement, for repairs to the property, site or property and to recover the filing fee for this proceeding.

The Tenant said she served the Landlord with the Application and Notice of Hearing (the “hearing package”) by personal delivery on January 20, 2014. Based on the evidence of the Tenant, I find that the Landlord was served with the Tenant’s hearing package as required by s. 89 of the Act and the hearing proceeded with both parties in attendance.

Issues(s) to be Decided

1. Is the Tenant entitled to an order to cancel the Notice to End Tenancy?
2. Is the Tenant entitled to compensation under the Act, regulation or tenancy agreement and if so how much?
3. Are there repairs that need to be done?

Background and Evidence

This tenancy started on February 1, 2012 as a month to month tenancy. Rent is \$900.00 plus a share of the utilities. The Tenant paid a security of \$450.00 in advance of the tenancy.

The Landlord said he served the Tenant with a 1 Month Notice to End Tenancy for Cause dated January 8, 2014. He served the Notice on January 8, 2014 by personal delivery to the Tenant. As well the Landlord said he has served another 1 Month Notice to End Tenancy for Cause dated February 25, 2014 by personal delivery on February 25, 2014. The Effective Vacancy date on the first notice is February 8, 2014 and the effective vacancy date on the second Notice is April 1, 2014. The Tenant is living in the unit and the Landlord said he wants to end the tenancy.

The Landlord continued to say that the reasons on the January 8, 2014 Notice to End Tenancy are repeatedly late rent payments, unseasonable number of people in the rental unit, the Tenant has significantly interfered or unreasonable disturbed the landlord, the Tenant has adversely affected the quiet enjoyment of the landlord, the Tenant has caused extraordinary damage to the rental unit and the Tenant has not completed repairs to the unit from damage the Tenant has caused. The Landlord said that he has not sent in any evidence to support his claims he just wants to end the tenancy. The Landlord continued to say the Police told him to contact the Residential Tenancy Branch about his issues with the tenancy, but the Landlord said he has not made an application as of yet. The Landlord said he has no evidence to support the Notices to End Tenancy that he has issued to the Tenant.

The Tenant said there have been no Police reports or contact with her from the Police and the Landlord is incorrect in many of his statements. The Tenant said she was late with one month's rent and the Landlord would not accept the March rent so it is unpaid at this time. The Landlord said the Tenant was not going to pay the full rent so he did not accept the rent for March, 2014 from the Tenant.

The Tenant continued to say that she is requesting the 1 Month Notice to End Tenancy for Cause be cancelled because the Landlord has no evidence to support the reasons.

As well the Tenant said she is requesting monetary compensation of \$200.00 for loss of enjoyment of her unit as the Landlord has been renovating the basement which resulted in construction noise and mess over a number of months and because the back steps on her balcony are not there which makes the balcony unusable because it is dangerous. The Landlord confirmed he has renovated the basement for his own use and that one of the patio stair cases is not there. The Landlord said the Tenant barricaded off the hole where the stairs are suppose to be so it is not that dangerous.

The Tenant also requested the Landlord to repair the patio stairs, repair some electrical plugs in the unit, replace a broken window by the front door and repair the lock on the back door of the rental unit.

The Landlord said he did not know about the back door lock and the electrical plugs until this heaaring and he didn't think the broken window was that important because it is a small window.

The Tenant said in closing that the Landlord makes many incorrect statements and he does not fix things when she asks him to do so.

The Landlord said in closing that he wants to make an application to the Residential Tenancy Branch to end this tenancy.

Analysis

It appears from the testimony at the hearing that communications between the Landlord and the Tenant has broken down. There was contradictory testimony provided by both the Tenant and the Landlord. As the Landlord has not provide any evidence to support the 1 Month Notices to End Tenancy for Cause it is just the Landlord's word against the Tenant's word with regards to the facts of the situation. The burden of proving the Notice to End Tenancy has just cause lies with the Landlord and when it is just the Landlord's word against that of the Tenant that burden of proof is not met.

Consequently, I find the Landlord has not met the burden of proof to support the Notice to End Tenancy and the Tenant has established grounds to be awarded an Order to cancel the Notice to End Tenancy. I order both the Notices to End Tenancy dated January 8, 2014 and February 25, 2014 to be cancelled and the tenancy is ordered to continue as verbally agreed to in the tenancy agreement.

As well I find the Tenant has established grounds for compensation for loss of quiet enjoyment of the property from the construction and loss of facilities due to the missing stairs on the patio. I accept the Tenant's testimony and evidence and I award the Tenant \$200.00 in compensation which is to be a onetime rent reduction for the April, 2014 rent payment.

Further I accept the testimony of the parties that there are repairs to be done to the unit, which include replacing the patio stairs, repairing the electrical plugs, replacing the window by the front door and repairing the locks on the back door of the rental unit. I order Landlord to complete these repairs by the end of April, 2014. If the repairs are not completed by April 30, 2014, I order the Tenant to reduce the rent payment by \$100.00 for each month until the repairs are completed.

As the Tenant has been successful in this matter I order the Tenant to recover the filing fee of \$50.00 from the Landlord. The Tenant may deducting \$50.00 from the April, 2014 rent payment which will reduce the April, 2014 rent payment by \$200.00 for the loss of quiet enjoyment and loss of facilities and now \$50.00 for the recovery of the filing fee. The April, 2014 rent payment is reduced from \$900.00 to \$650.00.

Conclusion

I order the 1 Month Notices to End Tenancy for Cause dated January 8, 2014 and February 25, 2014 are cancelled and the tenancy is ordered to continue as indicated in the tenancy agreement.

The April, 2014 rent is reduced to \$650.00

The Landlord is ordered to make repairs to the rental unit as described in the analysis.

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: March 05, 2014

Residential Tenancy Branch

