



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Aeron Management Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNL OLC RP OPC MND MNDC FF

Introduction

This hearing was convened pursuant to applications by the tenant and the landlord. The tenant applied to cancel a two-month notice to end tenancy for landlord's use, as well as for repair orders and an order that the landlord comply with the Act. The landlord applied for an order of possession pursuant to a one-month notice to end tenancy for cause, as well as for monetary compensation. The tenant, an advocate for the tenant and two agents for the landlord participated in the teleconference hearing.

At the outset of the hearing, it appeared that the landlord was confused about whether or not they had served the tenant with a one-month notice to end tenancy for cause. The tenant stated that he was not served with a one-month notice, only the two-month notice. Eventually one of the landlord's agents verified that they did not in fact serve the tenant with a one-month notice to end tenancy for cause. I informed the landlord that I therefore could not proceed with the portion of their application regarding an order of possession pursuant to a one-month notice.

I determined that the issue of the two-month notice to end tenancy took precedence, and only heard evidence on that issue. I will address the remainder of the applications in the conclusion of my decision.

Issue(s) to be Decided

Is the two-month notice to end tenancy valid, or should it be cancelled?

Background and Evidence

On February 10, 2014 the landlord served the tenant with a two-month notice to end tenancy for landlord's use of property. The notice indicates that the landlord seeks to end the tenancy because they have all necessary permits and approvals required by

law to renovate the unit in a manner that requires the unit to be vacant. The landlord stated that the tenant's unit is the only remaining unit in the 19-unit building to have the bathroom renovated. According to the landlord the renovations would involve a complete strip-out and replacement of the fixtures, drywall, tiling, flooring, subflooring and electrical fixtures. The landlord estimated that this work would take about one month, and they stated it would not be possible to do this work with the tenant in the unit.

The landlord also submitted that there was a strong likelihood that the entire area carpet in the unit would have to be replaced, as the tenant "has failed to keep his suite to a minimum standard of cleanliness." The landlord also stated that they have had a lot of issues with the tenant, and he is not a good tenant.

The tenant's response was that the landlord did not issue the two-month notice to end tenancy in good faith. The tenant submitted that the landlord wants the tenant out of the unit because they believe he is "unclean." The tenant submitted that the landlord discriminates against the tenant because he has a disability, identified as "autistic traits." The tenant submitted that the landlord talks down to the tenant like he's an adolescent.

Analysis

When a landlord seeks to end a tenancy for landlord's use of the property, including for renovations that require the unit to be vacant, the landlord must issue the notice to end tenancy in good faith. This means that the landlord cannot have an ulterior motive for ending the tenancy, regardless of whether they also have another, valid reason for seeking to end the tenancy.

In this case, I find that the landlord had more than one motive for ending the tenancy. The landlord clearly expressed their opinion that the tenant does not keep his unit in a reasonable, sanitary condition, that it has been an ongoing problem, and he is not a "good tenant." Therefore, even though the landlord may have had a valid reason to issue the notice, the notice must be cancelled because it was not issued entirely in good faith.

As the landlord was not successful in their application, they are not entitled to recovery of the \$50 filing fee for the cost of their application.

Conclusion

The two-month notice to end tenancy for landlord's use is cancelled, with the effect that the tenancy continues.

I dismiss the remainder of both applications with leave to reapply.

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: April 2, 2014

Residential Tenancy Branch

