



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC MNDC RP LRE LAT OPC MNSD FF

Introduction

This hearing was convened pursuant to applications by the tenants and the landlord. The tenants applied to cancel a notice to end tenancy for cause, as well as for monetary compensation, an order for repairs, an order suspending or setting conditions on the landlord's right to enter the rental unit, and an order authorizing the tenant to change the locks. The landlord applied for an order of possession pursuant to the notice to end tenancy for cause, as well as an order to retain the security deposit.

I determined that the issue of the 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.

At the outset of the hearing, each party confirmed that they had received the other party's evidence. Neither party raised any issues regarding service of the application or the evidence. Both parties were given full opportunity to give testimony and present their evidence. I have reviewed all testimony and other evidence. However, in this decision I only describe the evidence relevant to the issues and findings in this matter.

Preliminary Issue – Validity of Notice to End Tenancy

Neither party issued a copy of the notice to end tenancy for cause which was the subject of the dispute. I asked the tenants to verify what information was recorded on their copy of the notice. The advocate for the tenants submitted that because the notice was not dated, I should find the notice invalid.

I found that the lack of a date on the notice was not a fatal flaw. Under section 68 of the Act, I may amend a notice if I am satisfied that the tenant knew or should have known the information that was omitted from the notice, and it is reasonable in the circumstances to amend the notice. In this circumstance I was satisfied, based on the

tenants' application made March 27, 2014 to cancel the notice, that the tenants were not prejudiced by the lack of a date of issuance on the notice. The tenants clearly were served with the notice prior to making their application to cancel it. Further, the tenants did not submit a copy of the notice, and I was not prepared to cancel the notice for an alleged flaw when the tenants did not submit a copy of the notice in question.

Issue(s) to be Decided

Is the notice to end tenancy valid?

Background and Evidence

On March 26, 2014 the landlord served the tenants with a notice to end tenancy for cause. The notice indicated that the reasons for ending the tenancy were as follows:

- 1) the tenants were engaged in illegal activity that has caused or is likely to cause damage to the landlord's property;
- 2) the tenants have caused extraordinary damage to the rental property; and
- 3) the pet damage deposit was not paid within 30 days as required by the tenancy agreement.

In the hearing the landlord confirmed that she was not alleging that the tenants were engaged in any illegal activity, and I therefore did not consider the first alleged cause.

The landlord also stated in the hearing that the tenants moved in with two dogs but did not pay a pet deposit; however, the landlord was not concerned with this cause. The landlord did not submit a copy of the tenancy agreement and she could not remember when she asked the tenant to pay the pet deposit. I therefore did not consider the third alleged cause.

In regard to extraordinary damage to the rental property, the landlord stated that on February 13, 2014, the landlord's agent and a plumber attended at the rental property to repair a leaking pipe in the laundry room, and the male tenant came downstairs and told the landlord's son he could not be there without giving 24 hours' notice. The landlord also stated that the tenants are feeding squirrels and racoons, and a deck is now scratched on the corner by the racoons.

Analysis

I found that the notice to end tenancy was not valid. The landlord did not provide sufficient evidence to establish that the tenants caused extraordinary damage to the rental property. In fact, according to the landlord's evidence, only very minimal damage has been caused to one corner of a deck. I therefore cancelled the notice to end tenancy for cause.

As the landlord's application was not successful, she is not entitled to recovery of the filing fee for the cost of her application.

I cautioned the parties that the landlord and the tenants have rights and responsibilities under the Act, and if they do not comply with the Act the landlord may have cause to end the tenancy and the tenants may have a valid claim for monetary compensation.

Conclusion

The notice to end tenancy for cause is cancelled. The tenancy continues until such time as it is ended in accordance with the Act.

The portions of landlord's application regarding an order of possession and recovery of the filing fee are dismissed. The remainder of both applications are dismissed 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: May 14, 2014

Residential Tenancy Branch

