



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNC, OLC, RP, FF

Introduction

This hearing dealt with an application by the tenant for an order to set aside a notice to end tenancy and for an order directing the landlord to comply with the *Act* and carry out repairs. The tenant also applied for the recovery of the filing fee. Both parties attended the hearing and had opportunity to be heard.

The parties acknowledged receipt of evidence submitted by the other and gave affirmed testimony.

Issue to be Decided

Does the landlord have grounds to end this tenancy? Does the landlord carry out the required repairs in the rental unit?

Background and Evidence

The tenancy began in July 2009. The monthly rent is \$2,000.00 payable on the 31st of each month.

On April 15, 2014, the landlord served the tenant with a one month notice to end tenancy for cause. The notice was served for the following reasons;

1. Tenant or a person permitted on the property by the tenant:
 - has seriously jeopardized the health or safety or lawful right of another occupant or the landlord
 - put the landlord's property at significant risk
2. Tenant has not done the required repairs of damage to the unit/site

The landlord stated that the events that prompted him to serve the notice were that the tenant does not take steps to prevent the buildup of moisture and mould inside the rental unit and that the tenant has not replaced the closet doors that he damaged.

The landlord stated that in December 2012, the tenant reported the presence of mould and the landlord hired a mould inspector to assess the problem. The inspector provided a report with some recommendations.

The tenant was instructed to wipe up condensation, use a mould cleaner provided by the landlord, ventilate the unit and use fans in the kitchen and bathroom. The tenant stated that he performed all of the tasks as instructed by the landlord. The tenant stated that in winter, there is excessive condensation on the windows and the floors and he has to wipe this moisture up more than once a day. He also added that the house is surrounded by trees and a high hedge which does not allow much sunshine into the house.

The landlord found that the problem reoccurred in December 2013 and stated that the tenant does not take steps to prevent the buildup of mould. The tenant argued that his children are falling sick and it was in his interest to keep the place as clean and dry as possible.

The landlord also stated that the house had mirrored closet doors which were broken and not replaced by the tenant. The landlord removed these doors in the interest of the safety of the family.

The tenant has applied for the landlord to replace the closet doors and to take action to prevent the buildup of mould inside the rental unit.

Analysis

In order to support the notice to end tenancy, the landlord must prove at least one of the grounds alleged, namely that the tenant has seriously jeopardized the health or safety or lawful right of another occupant or the landlord, has put the landlord's property at significant risk or has not done the required repairs of damage to the unit/site

Based on the testimony of both parties, I find that the rental unit is approximately 38 years old and is located in an area that is shaded. For these reasons, in winter, there is an excessive amount of condensation which takes place on the windows and the floors of the rental unit. The tenant stated that he takes steps to wipe up, ventilate and use fans, but the condensation is difficult to get rid of entirely.

Even if I accept the landlord's testimony that the tenant does not take action to mitigate the amount of condensation, I find that this is not reason enough to end the tenancy.

The tenant agreed that he broke the mirrored closet doors. I find that it is the tenant's responsibility to replace them as breaking the doors is not a result of normal wear and tear. I further find that breaking the closet doors is also not reason enough to end the tenancy.

Based on the above, I find that the landlord has not proven that the tenant significantly jeopardised the health and safety of the occupants or the landlord. The landlord has also not proven that the tenant put the landlord's property at significant risk.

I therefore allow the tenant's application and set aside the landlord's notice to end tenancy dated April 15, 2014. As a result, the tenancy shall continue in accordance with its original terms.

The tenant is responsible to fix the damage that he caused to the doors and therefore his application for an order directing the landlord to do so, is dismissed.

Since the tenant has proven most of his application, I award him the recovery of the filing fee of \$50.00. The tenant may make a onetime deduction of \$50.00 from a future rent.

Conclusion

The notice to end tenancy is set aside and the tenancy will continue.

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: June 05, 2014

Residential Tenancy Branch

