



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, MNDC, RR

Introduction

This hearing dealt with an application by the tenant seeking to have a One Month Notice to End Tenancy for Cause set aside, an order to allow the tenant a reduction in rent for repairs, services, or facilities agreed upon but not provided and a monetary order for money owed or compensation for damage or loss suffered under the Act, regulation or tenancy agreement. Both parties participated in the conference call hearing. Both parties gave affirmed evidence.

Issues to be Decided

Is the tenant entitled to any of the above under the Act, regulation or tenancy agreement?

Background and Evidence

The tenant gave the following testimony:

The tenancy began on or about July 1, 2011. Rent in the amount of \$700.00 is payable in advance on the first day of each month. At the outset of the tenancy the landlord collected from the tenant a security deposit in the amount of \$350.00. The tenant stated that the landlord issued a One Month Notice to End Tenancy for Cause dated April 30, 2014 with an effective date of May 30, 2014. The tenant stated that the notice was issued on the basis of a government order, however the tenant stated that there was not an order in place. The tenant is seeking \$750.00 as compensation for having to deal

with this matter as the parties have had a previous hearing. The tenant stated that the landlord is causing her to lose her quiet enjoyment and is feeling threatened and harassed by the landlord. The tenant stated that she is seeking a 20% reduction in rent from this point forward as the landlord has not dealt with a cockroach problem as ordered in the previous hearing.

The landlord gave the following testimony:

The landlord stated that there is a government order in place now but will be addressed at a hearing that the parties are scheduled for in August. The landlord stated that they have dealt with the cockroach issue to a certain extent. The landlord stated that the tenant has been restricting access to the unit and not allowing the pest control company to follow up on the initial spraying of the unit. The landlord stated that they are not harassing or threatening and are issuing the notices as provided by the Act.

Analysis

When a landlord issues a notice pursuant to Section 47 of the Act they bear the responsibility to provide evidence for the issuance of that notice. At the time the landlord issued the notice there was not a government order in place; the landlord acknowledged that. Based on the above I hereby set aside the One Month Notice to End Tenancy for Cause dated April 30, 2014 with an effective date of May 30, 2014. That notice is of no effect or force. The tenancy continues.

The tenant is seeking \$750.00 compensation. When a party makes a claim for damage or loss the burden of proof lies with the applicant to establish their claim. To prove a loss the applicant must satisfy the following four elements:

1. Proof that the damage or loss exists,
2. Proof that the damage or loss occurred due to the actions or neglect of the other party in violation of the Act, Regulation or tenancy agreement,
3. Proof of the actual amount required to compensate for the claimed loss or to repair the damage, and

4. Proof that the applicant followed section 7(2) of the Act by taking steps to mitigate or minimize the loss or damage being claimed.

The tenant has failed to satisfy me of all four of the above grounds as required; in fact she has not satisfied me on any of the grounds as listed. I fully accept the relationship between the two parties is an acrimonious one; however the landlord is pursuing the only legal means available to them to address a government order. Based on the above I dismiss the tenants claim for \$750.00 compensation.

The tenant also seeks a 20 % rent reduction as the landlord has not complied with a previous order to deal with cockroaches. The landlord submitted a copy of a cheque for payment to a pest control company. The landlord stated that they are actively dealing with it but the tenant has made it difficult in accessing the unit. The tenant stated she has not restricted access. The tenant stated she was “confused” as to whether the landlord had in fact sprayed her unit. Based on the above the tenant has not satisfied me that she is entitled to a rent reduction and accordingly I dismiss this portion of her application.

Conclusion

The One Month Notice to End Tenancy for Cause dated April 30, 2014 with an effective date of May 30, 2014. That notice is of no effect or force. The tenancy continues.

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 30, 2014

Residential Tenancy Branch

