



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, LRE, FF, O

Introduction

This hearing was convened in response to an application and amended application by the Tenants pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order cancelling a notice to end tenancy – Section 47;
2. An Order suspending the landlord’s right to enter – Section 70;
3. An Order to recover the filing fee for this application - Section 72;
4. Other.

The Landlord and Tenants were each given full opportunity to be heard, to present evidence and to make submissions.

Preliminary Matter

At the onset of the hearing the Tenants confirmed that they will be moving out of the unit on or before July 31, 2014. As the matter of the end of tenancy has been resolved and the Tenants will be moved out of the unit very shortly, I dismiss the Tenants claims for and order cancelling the notice to end tenancy and the claim suspending the Landlord’s right of entry. The Parties confirmed their mutual understanding that the Tenants’ remaining claim is for the equivalent of two month’s rent in compensation and recovery of the filing fee.

Issue(s) to be Decided

Are the Tenants entitled to the monetary amounts claimed?

Background and Evidence

The tenancy started on September 1, 2003. Rent of \$2,489.48 is payable monthly.

The Tenants state that the Landlord entered the unit on May 24, 2014 without right and that on May 31, 2014 the Landlord unfairly sought to end the tenancy by serving them with a one month notice to end tenancy for cause. The Tenants state that these actions of the Landlord caused the family and in particular the Tenants' children to experience trauma as this was a long term tenancy. The Tenant indicates that the children have disabilities that make them more vulnerable to such events. The Tenants state that because of the actions of the Landlord the Tenants and their children underwent further stress finding another rental and preparing for the move. The Tenants claim compensation equivalent to two month's rent.

The Landlord does not dispute entering the unit without right but states that the amount being sought is excessive.

Analysis

Section 7 of the Act provides that where a landlord does not comply with the Act, regulation or tenancy agreement, the landlord must compensate the tenant for damage or loss that results. In a claim for damage or loss under the Act, regulation or tenancy agreement, the party claiming costs for the damage or loss must prove, inter alia, that the damage or loss claimed was caused by the actions or neglect of the responding party, that reasonable steps were taken by the claiming party to minimize or mitigate the costs claimed, and that costs for the damage or loss have been incurred or established.

Section 47 of the Act allows a landlord to issue a one month notice to end tenancy for cause (the "Notice"). This same section allows a tenant to dispute the Notice. I accept that the Tenants are moving out of the unit for reasons that are not the reasons provided in the Notice. However as the Act allowed the Landlord to give the Tenants the Notice, I find that the Tenants' claim for compensation for having been given the Notice is without merit and I dismiss this claim.

Section 29 of the Act sets out the exceptions on a restricted right of entry by a landlord into a rental unit. Based on the undisputed evidence that the Landlord entered the unit without right, I find that the Tenants have established that the Landlord breached the Act. I also find that the Tenants would have reasonably experienced some loss of quiet enjoyment of the unit however not to the extent claimed as the Tenants otherwise had full physical enjoyment of the unit. Considering that there was only one incident of an entry by the Landlord but accepting that such entry would be disturbing, particularly to the children, I find that the Tenants are entitled to a nominal amount of **\$200.00** in compensation.

As the Tenants have had some success with their application I find that the Tenants are also entitled to recovery of the \$50.00 filing fee for a total entitlement of **\$250.00**.

Conclusion

I grant the Tenant an order under Section 67 of the Act for **\$250.00**. If necessary, this order may be filed in the Small Claims Court and enforced as an order of that Court.

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: July 29, 2014

Residential Tenancy Branch

