



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, CNC, ERP, LRE

Introduction

This hearing was convened in response to applications by the Landlord and the Tenant.

The Landlord's application is seeking an Order of Possession.

The Tenant's application is seeking orders as follows:

1. To cancel an a one month notice to end tenancy issued for Cause on September 17, 2014 (the, "Notice"); and
2. A Monetary Order in the amount of \$1,000.00;
3. An order that the Landlord make repairs to the unit; and
4. An Order suspending or setting conditions on the Landlord's right to enter the rental unit;

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

In a case where a Tenant has applied to cancel a notice for cause Residential Tenancy Branch Rules of Procedure require the Landlord to provide their evidence submission first, as the Landlord has the burden of proving cause sufficient to terminate the tenancy for the reasons given on the notice.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to the relevant facts and issues in this decision.

Issues to be Decided

1. Should the Notice be cancelled?
2. Is the Landlord entitled to an Order of Possession?
3. Is the Tenant entitled to a Monetary Order?
4. Is the Tenant entitled to an Order that the Landlord make repairs, emergency and otherwise to the unit?
5. Is the Tenant entitled to an Order restricting the Landlord's right to enter the rental unit?

Background and Evidence

The tenancy began on March 27, 2009. Rent in the amount of \$500.00 was payable on the first of each month. A copy of the residential tenancy agreement was introduced in evidence. The Tenant rented a room in a larger eight bedroom home occupied by other persons also renting rooms.

The reasons listed in the Notice were that the Tenant has:

- significantly interfered with or unreasonably disturbed another occupant or the landlord; and
- engaged in illegal activity that has, or is likely to adversely affect the quiet enjoyment, security, safety or physical well0being of another occupant or the landlord.

The Landlord also issued a Notice to End Tenancy for Cause on October 16, 2014 which provides that the Tenant is required to vacate the rental unit on or before December 1, 2014 (the "Second Notice").

The reason stated in the Second Notice was that the rental unit/site must be vacated to comply with a government order. As the Landlord's application for dispute resolution did not reference the Second Notice it is not necessary to address the Second Notice.

LANDLORDS EVIDENCE

The Landlord testified that the Tenant has had conflict with five previous occupants, all of whom have left because of the Tenant's behaviour. He stated that the Tenant has assaulted other occupants, as well as threatening them. A previous Notice to End Tenancy for Cause was issued, but the Landlord did not proceed with eviction as he said he felt sorry for the Tenant, was very apologetic and promised to improve his behaviour. The Landlord stated that rather than improve, the Tenant's behaviour has deteriorated to the point where the other occupants feel harassed by the Tenant and unsafe living with him. The Landlord also testified that the Tenant's behaviour is impacting his ability to sell the rental home as the Tenant has threatened the realtor, and accosted prospective buyers when the home has been shown.

The Landlord introduced in evidence the following letters:

- A letter from S.S., another occupant of the rental building in which he describes the Tenant's behaviour. He writes that the Tenant appears to be on a "personal vendetta" against two other occupants, M. and C., wherein he continually accuses them of theft and drug use. S.S. writes that the Tenant has threatened physical violence against M.
- A letter from M.C. and C.K., who are the M. and C. in the letter from S.S. In this letter, which appears to be written from C.K.'s perspective, she describes the Tenant as calling them names, yelling at them and threatening them.
- Two letters from a realtor, J.A. who writes about his dealings with the Tenant when he has attempted to show the home to prospective buyers. He writes that on two separate occasions in September 2014, the Tenant confronted him and prospective buyers inside the home. Apparently the Tenant asked the realtor if he had told the buyers about the "rats" and the tenants in the basement who were doing crystal meth. J.A. further writes that the buyers were upset by this experience and from J.A. perspective, this ruined any chance of a possible offer on the property.

The Landlord also submitted photos of damage caused by the Tenant to the central heating thermostat and lock box as well as the Tenant's door. As the Landlord did not identify damage done by the Tenant as a reason for issuing the Notice it is not necessary to consider that evidence.

TENANTS EVIDENCE

The Tenant testified that he gets along with everyone, except M.C. and C.K. who he alleges smoke crystal meth every day. The Tenant alleged that these residents also access his room through the overhead ceiling tiles and steal his belongings. He stated that his request for a Monetary Order in the amount of \$1,000.00 was because he believed that was the value of items that have been stolen from his room by the other occupants.

The Tenant stated that the other occupants have never asked him not to videotape them.

When asked about the alleged threats made to the realtor, the Tenant responded that he was not provided the required notice of the showing of the rental home.

The Tenant stated that the Landlord refuses to tend to any repairs and has allowed the home to be infested with rats. The Tenant referred to the Landlord as a "slum lord" on numerous occasions both in the hearing, as well when naming his electronic files.

The Tenant confirmed that he called the municipality to report the Landlord for having too many occupants in the rental home.

The Tenant introduced in evidence three letters including:

- a letter from the Tenant's friend, J.L.L., wherein she asks that the "drug users" in the rental unit be evicted;
- a letter from his former neighbour, K.B., who provides a character reference for the Tenant; and
- a letter from P.L. another neighbour who also provides a character reference for the Tenant.

Also introduced in evidence by the Tenant were numerous videos and photos he had taken inside the rental home. . The photos and a small portion of the videos show the condition of the home, presumably in support of the Tenant's request for an Order that the Landlord make repairs.

However, the majority of the videos depict the Tenant videotaping other occupants while the Tenant makes offensive and disparaging comments about these other occupants,

primarily accusing them of being drug users. Introduced in evidence were 11 such videos. Four of the videos clearly depicted the Tenant following around other occupants, insulting them, calling them names, and otherwise harassing them. The other occupants are clearly bothered by the Tenant's behaviour and at times attempt to leave the room only to be followed by the Tenant with his video camera.

Analysis

After considering all of the written and oral submissions submitted at this hearing, I find that the Landlord has provided sufficient evidence to show that the Tenant has:

- significantly interfered with or unreasonably disturbed another occupant or the Landlord

The tenant argued that the rental unit had become uninhabitable due to other occupants. He provides this as an explanation as to why he embarked on a video-taping campaign whereby he videotaped the other occupants without their consent. While the Tenant seems to believe that these videos support his application, I find that the comments made by the Tenant to be extremely unpleasant and verbally abusive. There is no question the Tenant's behavior disturbs other and unreasonably interferes with the other occupants' right quiet enjoyment.

In this case, the reason the Notice was issued was the Tenant has significantly interfered with or unreasonably disturbed another occupant or the Landlord. I find the Tenant was provided sufficient warnings by the Landlord to correct this behaviour. The Tenant continued to unreasonably disturb the other occupants in the rental building following these warnings.

Accordingly, I find on the balance of probabilities, that the Tenant application to dismiss the Notice should be dismissed. The Landlord has established ground for issuing the Notice and has satisfied me that the tenancy should end.

Therefore, I dismiss the Tenant's application to cancel the Notice. The tenancy will end in accordance with the Notice. As the Tenancy will end, some of the relief sought by the Tenant is no longer applicable. Further, there was no evidence to support of the Tenant's claim that the other occupants were stealing his belongings. The Tenant's application is dismissed in its entirety.

As the Tenant's application is dismissed and the Landlord has made an application for an Order of Possession, pursuant to section 55 of the Act, I must grant this request.

Section 55(1) of the Act states:

Order of Possession for the Landlord

55 (1) If a Tenant makes an application for dispute resolution to dispute a Landlord's notice to end a tenancy, the director must grant an order of possession of the rental unit to the Landlord if, at the time scheduled for the hearing,

- (a) the Landlord makes an oral request for an order of possession, and
- (b) the director dismisses the Tenant's application or upholds the Landlord's notice.

As I have dismissed the Tenant's application, I find that the Landlord is entitled to an Order of Possession effective **2 days after service on the Tenant**. This order must be served on the Tenant and may be filed in the Supreme Court

The Landlord has been successful with his application and the Landlord is entitled to recover the cost of filing the application. Therefore, I grant the Landlord a Monetary Order in the amount of \$50.00 and the Landlord is entitled to deduct that amount from the security deposit if full satisfaction of the claim.

Conclusion

The Tenant's application to cancel the Notice is dismissed.

The Landlord is granted an Order of Possession. I grant the Landlord a Monetary Order for the cost of filing their application and the Landlord is entitled to deduct that amount from the security deposit.

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: November 24, 2014

Residential Tenancy Branch

