



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ECT HOLDINGS LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: CNC ERP RP RR MNDC

Introduction

This hearing dealt with an application by the tenant pursuant to the *Residential Tenancy Act* (the Act) for orders as follows:

- a) To cancel a Notice to End Tenancy for cause;
- b) That the landlord do emergency repairs pursuant to section 32; and
- c) That the landlord repair and maintain the property pursuant to section 33.
- d) A rent rebate or monetary order as compensation for repairs not done; and
- e) To recover the filing fee for this application.

Service:

The parties agreed that the tenant /applicant received the Notice to End Tenancy posted on his door and he served the Application for Dispute Resolution by registered mail. I find the documents were legally served for the purposes of this hearing.

Issue(s) to be Decided:

Has the landlord proved on the balance of probabilities that there is good cause to end the tenancy or is the tenant entitled to any relief?

Has the tenant proved on the balance of probabilities that the landlord has not maintained the property contrary to sections 32 and 33 of the Act and are they entitled to orders that the landlord do necessary repairs and to compensation for repairs not done?

Background and Evidence

Both parties attended the hearing and were given opportunity to be heard, to provide evidence and to make submissions. The undisputed evidence is that the tenancy commenced in May 2009, it is now a month to month tenancy, rent is \$875 a month and a security deposit of \$450 was paid.

The landlord gave reasons for ending the tenancy. They said that on August 29, 2014, they went to look at the kitchen cabinets in the tenant's unit and they were in poor shape. They told the tenant they were unable to get matching doors as the cabinets were 40 years old. He got very angry with them and insisted they had to be replaced if impossible to match them. When the Property Manager said "No", the tenant's behaviour escalated to yelling and screaming; he followed them to the parking lot and put his finger at the Property Manager's nose and threatened "to deck him". The female building manager witnessed this and wrote an account and the landlord issued a Notice to End Tenancy. The tenant wrote an apology and said he had forgotten to take his medication so they did not follow through with the Notice. In December 2014, the building manager wanted to enter the tenant's unit to take measurements of the cupboards but the tenant put her off. They finally got an appointment and went in and the tenant again demonstrated volatile behaviour, yelling and screaming. The female manager said she no longer feels comfortable in the building; the tenant is so verbally abusive that it approaches violence and she has to have a male accompany her. Recently on January 21, 2015, the tenant was on the telephone to her for an hour and he was screaming and using foul language so loudly that her husband could hear it across the room. They request an Order of Possession if the tenant is unsuccessful.

The tenant said he thought he had a good relationship with the female building manager but he agreed that he gets a panic attack when people say they will do something and do not do it. He said if they had just agreed on a date to fix his cupboards and did it, he would not have panic attacks. He said the previous landlord had raised his rent with the promise of replacing cupboards and carpet and never did it so the rent was lowered again. He would like to stay. He said the only issue has been the repair problem.

After further discussion, the parties agreed to settle as follows:

1. The tenant agrees he will be respectful to the staff of the landlord and use appropriate language and behaviour in his dealings with staff and bring any issues to the attention of the manager through the tenancy advocate rather than dealing with the manager.
2. The landlord will receive an Order of Possession effective May 31, 2015.
3. Should the tenant not keep the terms he agreed upon as set out in #1 above, the landlord is at liberty to bring an Application for an earlier end of tenancy and an Order of Possession.

On the basis of the documentary and solemnly sworn evidence presented for the hearing, a decision has been reached.

Analysis:

Section 47 of the Act provides a tenancy may be ended (in part) *if the tenant is seriously jeopardizing the health or safety or lawful right of another occupant or the landlord*. I find the weight of the evidence is that the tenant's volatile behaviour is jeopardizing the health, safety and lawful rights of the staff of the landlord. The female building manager is so intimidated that she cannot go about her normal duties without a male escort and the property manager was threatened and intimidated by the tenant. This behaviour not only jeopardizes their health and safety but their lawful right to go about their business of managing the property. The credibility of the landlord's evidence is supported by the tenant's own testimony that he gets panic attacks and becomes volatile in his behaviour. I dismiss the Application of the tenant to cancel the Notice to End Tenancy as I find the landlord has shown good cause to end this tenancy. I find the landlord entitled to an Order of Possession effective May 31, 2015 as agreed in the hearing. Please note the landlord is at liberty to apply for an earlier possession if the tenant violates the terms of his agreement.

Respecting the tenant's application for repair or replacement of cupboards, I find insufficient evidence that the landlord has refused to repair the cupboards. The weight of the evidence indicates that the delay was largely caused by the tenant wanting to replace the cupboards and the landlord insisting on repairing them. Section 32 of the Act provides:

32 (1) A landlord must provide and maintain residential property in a state of decoration and repair that

(a) complies with the health, safety and housing standards required by law, and

(b) having regard to the age, character and location of the rental unit, makes it suitable for occupation by a tenant.

I find the landlord is willing to repair the cupboards and counter top but they cannot do it with matching items because the building is over 40 years old and according to section 32(1) (b), the age of the building is a factor in maintenance standards. There is no evidence that the present cupboards and counter do not comply with health and safety standards or make the unit unsuitable for occupation. I find insufficient evidence to support the tenant's statements that replacements were promised to him for a raise in rent as the weight of the evidence is that he was dealing with a former owner at that time. I find any delays in repair have been caused partially by the tenant's own behaviour. Therefore, I dismiss this portion of the Application of the tenant.

Conclusion:

I dismiss the Application of the tenant in its entirety without leave to reapply. I find the landlord entitled to an Order of Possession effective May 31, 2015 as agreed.

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: March 18, 2015

Residential Tenancy Branch

