



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

CNC, MNDC

Introduction

The tenant applies to cancel a Notice to End Tenancy for cause and for a monetary award claiming the landlord wrongfully refused to extend her tenancy and that her son suffered a personal injury on the property, while in the care of Mr. J.T..

The tenant vacated the premises April 30, 2015 and so the question of the Notice to End Tenancy is no longer relevant.

The tenancy agreement discloses that the landlord is the numbered company. The respondent management company and Mr. J.T. are shown on the written tenancy agreement as, I assume, the contacts for the landlord. The numbered company was added as a respondent party at this hearing.

Issue(s) to be Decided

Was the tenant entitled to an extension of her tenancy? Does a Residential Tenancy arbitrator have the power to award damages for personal injury to a non-tenant? If so, what is the appropriate measure of damages?

Background and Evidence

The rental unit is a four bedroom townhouse. The tenancy started February 1st or 11th, 2015 and was for a fixed term ending April 30, 2015. The standard form tenancy agreement signed by the tenant indicates that at the end of the fixed term the tenancy is ended and the tenant must vacate the rental unit. That provision has been initialed by the tenant and by Mr. J.T. for the landlord.

The rent was \$785.00 per month. The \$359.90 security deposit has been returned to the tenant.

The tenant says that she wanted to stay in the apartment after the end of the fixed term but that Mr. J.T. would not agree. She points out how much she and her family liked the premises.

She testifies that on or about March 27, 2015 her son was injured in a common garden area on the property when a window blew down. She says he was scraped on the right eye and down his right side. She says that at the time he was under the supervision of and “working” for Mr. J.T.

Mr. J.T. denies that the boy was working for him or under his supervision at the time.

Analysis

Section 13 of the *Residential Tenancy Act* (the “Act”) provides for fixed term tenancy agreements that end with a requirement that the tenant move out.

- 13** (1) A landlord must prepare in writing every tenancy agreement entered into on or after January 1, 2004.
- (2) A tenancy agreement must comply with any requirements prescribed in the regulations and must set out all of the following:
- (a) the standard terms;
 - (b) the correct legal names of the landlord and tenant;
 - (c) the address of the rental unit;
 - (d) the date the tenancy agreement is entered into;
 - (e) the address for service and telephone number of the landlord or the landlord's agent;
 - (f) the agreed terms in respect of the following:
 - (i) the date on which the tenancy starts;
 - (ii) if the tenancy is a periodic tenancy, whether it is on a weekly, monthly or other periodic basis;
 - (iii) if the tenancy is a fixed term tenancy,**
 - (A) the date the tenancy ends, and**
 - (B) whether the tenancy may continue as a periodic tenancy or for another fixed term after that date or whether the tenant must vacate the rental unit on that date;**
 - (iv) the amount of rent payable for a specified period, and, if the rent varies with the number of occupants, the amount by which it varies;
 - (v) the day in the month, or in the other period on which the tenancy is based, on which the rent is due;
 - (vi) which services and facilities are included in the rent;
 - (vii) the amount of any security deposit or pet damage deposit and the date the security deposit or pet damage deposit was or must be paid.

(emphasis added)

This agreement clearly states that the tenant must move at the end of the fixed term. The parties initialled that particular choice in the standard form agreement, emphasizing that they had each turned their attention to what would occur at the expiry of the fixed term.

There is no legal obligation on a landlord to continue to rent to the tenant in such circumstances.

There is no evidence to support any suggestion that there was a promise by the landlord or an agreement between the parties that the tenant could stay after the end of the fixed term.

For these reasons the tenants claim for damages for having to move at the end of the fixed term tenancy must be dismissed.

The tenant's second claim is essentially a claim for a personal injury alleged to have been suffered by her young son as a result of the alleged negligence of Mr. J.T. while supervising the boy or as a result of a defect in the construction of an enclosed garden space.

The *Act* empowers the Director, and through her an arbitrator, to resolve disputes between landlords and tenants. Even if it could be said that personal injury claims were a category of dispute included within that ambit, the *Act* does not extend itself to claims made by (or on behalf of) the family members of a tenant, other occupants or visitors that might be present in the rental unit or common areas from time to time.

I find I do not have jurisdiction to adjudicate the claim of the tenant's son. She must seek relief on his behalf in another forum, like a court.

Conclusion

The tenant's claims must both be dismissed.

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: May 20, 2015

Residential Tenancy Branch

