



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MT, CNC, CNL, CNR, MND, MNSD, MT,

Introduction

This was a hearing with respect to an application for dispute resolution brought by the tenant. The hearing was conducted by conference call. The tenant and the landlord called in and participated in the hearing. The tenant and the landlord exchanged documentary evidence before the hearing.

Issue(s) to be Decided

Should the various Notices to End Tenancy be cancelled?

Should the landlord be granted an order for possession and if so when should the order be effective?

Is the tenant entitled to any other relief, including a monetary award and if so, in what amount?

Background and Evidence

The rental unit is a basement apartment in the landlord's house in Surrey. The tenancy began on April 15, 2011. The monthly rent is \$500.00. The tenant paid a \$250.00 security deposit on April 12, 2011.

On April 13, 2015 the landlord served the tenant with a one month Notice to End Tenancy for landlord's use. The stated grounds for the Notice to End Tenancy were that the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord and that she has seriously jeopardized the health or safety or lawful right of another occupant or the landlord. The Notice required the tenant to move out of the rental unit by June 1, 2015.

The tenant applied to dispute the Notice to End Tenancy on April 24, 2015 and she requested that she be allowed more time to make her application to dispute the Notice to End Tenancy.

On April 24, 2015 the landlord served the tenant with a second Notice to End Tenancy, this time a two month Notice to End Tenancy for landlord's use. The ground for the Notice was that the rental unit would be occupied by the landlord, or a close family member. The Notice required the tenant to move out of the rental unit by July 1, 2015.

The landlord served a third Notice to End Tenancy dated May 26, 2015. This Notice was a 10 day Notice to End Tenancy for unpaid rent. It stated that the tenant failed to pay rent in the amount of \$500.00 that was due on November 1, 2012. The tenant sought an amendment to her application to dispute this notice, as well as the earlier ones.

The landlord has also given the tenant a fourth Notice to End Tenancy, a 10 day Notice to End Tenancy for unpaid rent for the month of June.

At the hearing the landlord testified that the one month Notice to End Tenancy for cause was personally served on the tenant on April 13, 2015. The landlord testified that the Notice was given because, in March, 2015 the tenant played her radio loudly and disturbed the landlord and her family. The landlord also said that the tenant slammed the door in the rental unit so hard that it shook the structure of the house and this disturbed the landlord.

The landlord said that she gave the tenant the two month Notice to End Tenancy because she intends to use the rental unit as a playroom for her children. She said that she gave the Notice because she wanted to be sure that the tenant moved out. The landlord apparently did not consider that there was any conflict or contradiction between the one Notice given for cause and the two month Notice for landlord's use. The landlord said at the hearing that she wanted the tenant to move out as soon as possible because, according to the landlord, the tenant has said some untrue, hurtful and unflattering things about the landlords in her application.

The tenant said in a written submission dated May 13, 2015, in part that:

Under these circumstances alone, I withdraw the Application for Dispute Resolution re LL's Notice: cause (section 47) and I accept the LL's Notice: LL's Use of Property (section 49), provided that the provisions set out in s. 51 (1); (2) (a) (b) are adhered to,

The tenant also advanced some claims for compensation, including a request for the return of her security deposit.

During the hearing the landlord said she was prepared to have the tenancy end on July 1, 2015 pursuant to the two month Notice to End Tenancy for landlord's use, but she said that she wanted an order for possession effective on July 1st. The landlord said that she understood that in accordance with the two month Notice, the tenant was entitled to withhold rent for the month of June and the landlord would not be able to claim payment of June rent.

Analysis

I find that the isolated noise complaints in March that apparently have not been repeated, do not constitute sufficient cause to end the tenancy. I find that the landlord effectively cancelled the one month Notice to End Tenancy when she gave the tenant a second Notice to End Tenancy for landlord's use with an effective date of July 1, 2015. The tenant accepted the two month Notice to End Tenancy. At the hearing she confirmed that she does not dispute the Notice to End Tenancy; she has secured other accommodation and will move out on July 1st. The tenant has not paid rent for the month of June. She is entitled to have the month of June free of rent as compensation for the two month Notice to End Tenancy as provided by section 51 (1) of the *Residential Tenancy Act*. There is no basis for the Notice to End Tenancy with respect to June rent and it too is cancelled.

The landlord also served the tenant with a 10 day Notice to End Tenancy with respect to the tenant's alleged failure to pay rent for the month of November, 2012. The tenant denied that she failed to pay rent in November, 2012 and the landlord has not provided documentary evidence in the form of accounting records to support the claim. The supposed missed payment dates back some 2 ½ years and I find that the landlord may not resurrect this matter after such a substantial delay; this notice is therefore cancelled.

The tenant claimed a monetary award for various items including administrative penalties and she claimed payment of her security deposit with interest. I deny the tenant's claims for a monetary award. She is moving out pursuant to the two month Notice. One month's free rent is the only compensation required under the *Residential Tenancy Act*. I have no jurisdiction to impose administrative penalties. The tenant's security deposit must be dealt with in accordance with the *Residential Tenancy Act* after the tenancy ends on July 1, 2015. I note that interest has not accrued on the security deposit. Unless the parties agree in writing as to the disposition of the security deposit,

the deposit must be returned or the landlord must apply for dispute resolution to claim the deposit within 15 days of the date that the tenancy ends, or the date that the landlord receives the tenant's forwarding address in writing, whichever is later.

Conclusion

Pursuant to the Notice to End Tenancy for landlord's use dated April 24, 2015 and pursuant to the agreement of the parties, I grant the landlord an order for possession effective July 1, 2015, after service on the tenant. This order may be registered in the Supreme 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: June 03, 2015

Residential Tenancy Branch

