



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with the tenants' application to cancel a notice to end tenancy for cause. Two tenants, the tenants' advocate and the landlord participated in the teleconference hearing.

At the outset of the hearing, each party confirmed that they had received the other party's evidence. Neither party raised any issues regarding service of the application or the evidence. The parties were given full opportunity to give affirmed testimony and present their evidence. I have reviewed all testimony and other evidence. However, in this decision I only describe the evidence relevant to the issues and findings in this matter.

Preliminary Issue – Request for Interpreter

On October 1, 2015 the Branch received 18 pages of evidence from the landlord. Within the evidence was a written request for the Branch to provide an interpreter for the landlord. At the outset of the hearing I informed the landlord that it was the responsibility of the parties to arrange for their own interpreter. I proceeded with the hearing and did not find that the landlord's English was too poor to understand. After the landlord gave testimony I confirmed with him that I understood his submissions.

Issue(s) to be Decided

Is the notice to end tenancy valid?

Background and Evidence

The landlord and the tenants signed the tenancy agreement on October 23, 2011. Under section 3(b) "what is included in the rent," in the space following "additional information," the landlord wrote "we can check in side the house twice a month."

On July 31, 2015, the landlord served the tenants with a notice to end tenancy for cause. The notice indicated that the reasons for ending the tenancy were that (1) the tenants had done extraordinary damage to the rental unit or property; and (2) the tenants breached a material term of the tenancy agreement and did not correct the breach within a reasonable time after written notice to do so.

Landlord's Submissions

The landlord stated that there is too much mess and damage in the rental unit and on the property.

The landlord stated that a pickup truck has been parked in the back of the property and not moved for the last four or five years. The landlord submitted a letter dated July 20, 2012 from a city bylaw enforcement officer, requesting that the pickup truck be removed. The landlord also submitted a photograph showing the truck and part of the fence missing.

The landlord submitted that when he checked the unit on June 20, 2015 there was damage to the walls and the hardwood floors were coming up; the downstairs shower handle was broken; the wall in the downstairs washroom was rotting; the blinds were broken all around the house; the garage door to the back yard was broken; and the tenants took off almost all of the closet doors. The landlord stated that water was leaking in the basement washroom and there is mould on all the doors. The landlord stated that if the tenants remain in the house it will have to be torn down because it will be unliveable. The landlord stated that for almost five months he has been telling the tenants to clean up. The landlord submitted a photograph of a hallway in the unit, where the landlord has circled some areas of the flooring and walls. Aside from one blackened area at the bottom of one wall, no other damage is clearly visible.

The landlord stated that the tenants have refused to allow the landlord to inspect the unit every month, contrary to the tenancy agreement.

Tenants' Response

The tenants stated that prior to receiving the landlords' evidence they had not seen the 2012 letter from the city to remove the truck. The tenants stated that they contacted the city and were told that the truck was not an issue.

The tenants submitted four photographs which they stated showed that the rental unit and property are not messy or damaged. The tenants stated that they had the hole in the hallway wall fixed. The tenants stated that despite the tenancy agreement the landlord cannot enter the rental unit without permission. The tenants stated that they have only been given a couple of written notices and when the landlord has done so the tenant has given permission for the landlord to enter.

The tenants stated that there have been seven leaks downstairs, and the landlord just put joiners and tape on it. The tenants stated that they had to call and pay for a plumber, and the landlord has been aware of the leaks.

Analysis

Upon consideration of the evidence and on a balance of probabilities, I find that the notice to end tenancy for cause dated July 31, 2015 is not valid.

The landlord failed to provide sufficient evidence that the tenants caused extraordinary damage to the rental unit or property. The 2012 letter regarding the pickup truck is outdated and of little or no evidentiary value. The landlord's two photographs do not show any extraordinary damage, and the tenants stated that the landlord has been aware of the leaks in the downstairs bathroom but he has not adequately addressed the problem.

I do not find that there has been a breach of a material term of the tenancy agreement. The landlord may conduct inspections of the rental unit and property but he must first obtain the tenants' consent. In this case the tenants have indicated that they wish to be served with written notice of the landlord's intent to enter the property.

Conclusion

I cancel the notice to end tenancy dated July 31, 2015. The tenancy will continue until such time as it ends in accordance with the Act.

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: October 15, 2015

Residential Tenancy Branch

