



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding No. 280 Seabright Holdings Ltd., DBA Martello Tower
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC, RP, RR, FF

Introduction

This was a hearing with respect to the tenant's application to cancel a one month Notice to End Tenancy for cause. The tenant included in her application a claim for repairs and for a rent reduction. In the tenant's documentary evidence, she submitted objections to the landlord's annual rent increases and she referred to repairs that she said the landlord agreed to perform that were still outstanding. The Residential Tenancy Rules of Procedure provide that:

Claims made in the application must be related to each other. Arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.

The principal matter to be addressed in this application is the tenant's application to cancel a Notice to End Tenancy for cause. She has objected to rent increases imposed by the landlord and has submitted that promised repairs have not been performed. I find that these matters are unrelated to the principal issue, namely: the validity of the Notice to End Tenancy and therefore I dismiss the tenant's application for a repair order and a rent reduction with leave to reapply. I note that an application for a rent reduction may not be used as a method to challenge an annual rent increase imposed in accordance with the *Residential Tenancy Act* and Regulation.

Issue(s) to be Decided

Should the one month Notice to End Tenancy for cause dated October 26, 2015 be cancelled?

Background and Evidence

The rental property is a high rise apartment building in Vancouver. The tenancy began in 2006.

On October 26, 2015 the landlord served the tenant with a one month Notice to End Tenancy for cause. The Notice required the tenant to move out of the rental unit by November 30, 2015. The landlord provide two reasons for seeking to end the tenancy; first that the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord and second, that the tenant has put the landlord's property at significant risk.

The landlord's representative testified that the landlord is engaged in an extensive plumbing project to re-pipe and replace all of the existing water pipe throughout the entire building. The work requires water shut offs and entry into each suite in the building according to a timetable prescribed by the contractor performing the work.

In order to keep the occupants of the building apprised of the work, the timing of water shut-offs and times for entering individual suites the landlord has placed a large notice board in the lobby of the building. The notice board is a white board upon which the weekly schedule may be written with a marker pen for the purpose of notifying tenants of scheduled work in particular apartments and of interruptions to water service.

On October 26, 2015 the landlord discovered that the notice board had been erased and much of the data lost. The landlord's representative reviewed the video security footage and discovered that the tenant came to the lobby in the early morning of October 26th and spent several minutes wiping the notice board with a rag or cloth in an attempt to remove the scheduling information from the board. The video also showed the tenant entering one of the elevators and then throwing the protective moving blankets out of the elevator and onto the lobby floor. The landlord's representative said that the tenant's actions amounted to vandalism and caused the landlord to be concerned for the safety of the rental property and its occupants; her actions had the potential to affect the plumbing work underway and to disturb and inconvenience other occupant of the building. The tenant's action in pulling down the moving drapes from the elevator showed a profound disregard for the landlord's property.

The landlord's representative said that the tenant was asked about the video and she acknowledged that she had engaged in the conduct shown in the video. According to the landlord, the tenant said that she had several drinks in the evening before she went to the lobby to wipe the notice board.

The tenant acknowledged at the hearing that her actions in attempting to erase information from the notice board were unwarranted and inexcusable. The tenant said that she was not attempting to justify her actions, but she had been disturbed by the

landlord's re-piping work in the building; there were three occasions when workers entered her unit without notice and without knocking when she was in bed and asleep. There were also occasions when she stayed home in anticipation of a scheduled entry and no one attended. With respect to the removal of the elevator drapes, the tenant said that when she entered the elevator they were improperly hung; they were falling down and lying on the floor. She said they amounted to a tripping hazard and seemed likely to fall on someone in the elevator so she pulled them down and threw them outside on the lobby floor.

The tenant complained that the landlord failed to respond to her written complaints and she mentioned necessary repairs to her unit that the landlord has not performed.

The tenant said that she realizes how inappropriate her actions were in erasing the notice board. The tenant said she will never repeat this conduct and will make any future complaints to the landlord in writing through the appropriate channels.

Analysis

The tenant's conduct depicted on the video was disturbing and uncalled for. The landlord's representative acknowledged at the hearing that the tenant did not cause any physical damage. There have been no repetitions of inappropriate behaviour since the October 26th incident. The landlord mentioned some noise complaints during the hearing, but the landlord did not rely on noise complaints as grounds for ending the tenancy, because, it appears that there are competing noise complaints and no consensus as to who is principally responsible for the complaints.

I find that the single incident, upsetting though it may be, does not, by itself, constitute sufficient cause to end this tenancy. The tenancy began nine years ago and I find that this one incident was out of character and fueled by the tenant's frustration over the inconvenience and disruption of the lengthy plumbing work in the rental property. The tenant appears to genuinely regret the incident and I find that the tenant should be allowed to continue her tenancy, with her awareness that any similar conduct in the future will not be excused. The tenant has assured the landlord that she will raise any future concerns that she has by appropriate communications to the landlord's representatives.

Conclusion

I allow the tenant's application and I order that the Notice to End Tenancy dated October 26, 2015 be, and is hereby cancelled. The tenancy will continue until ended in

accordance with the *Residential Tenancy Act*. The other claims in the tenant's application have been dismissed with leave to reapply. I do not award the recovery of the filing fee for this application.

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: December 30, 2015

Residential Tenancy Branch

