



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding SKYLINE APARTMENTS
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNR, MNDC, PSF, LRE, RR

Introduction

The tenant applies to cancel a ten day Notice to End Tenancy dated and received November 2, 2015. She also seeks a monetary award for the cost of medication, a transit fine, loss of income for two months, unpaid rent and offsite laundry expenses and related travel costs. She seeks to have her rent for January and February 2016 reduced claiming loss of enjoyment and privacy. The tenant also seeks an order that the landlord provide a service or facility, an order restricting the landlord's access to the premises and a rent reduction because of lost services or facilities.

Both parties attended the hearing, the landlord by its representative Mr. D.R., and were given the opportunity to be heard, to present sworn testimony and other evidence, to make submissions, to call witnesses and to question the other. Only documentary evidence that had been traded between the parties was admitted as evidence during the hearing.

The landlord made a verbal request for an order of possession if the ten day Notice is upheld, as it is entitled to do under s. 55 of the *Residential Tenancy Act* (the "RTA").

Issue(s) to be Decided

Does the relevant evidence presented during the hearing show that the ten day Notice is a valid Notice. If so, is the landlord entitled to an order of possession? Does the evidence show that the tenant has lost a service or facility or that the landlord's entry to the suite should be restricted beyond the limited right of entry granted to it by the *RTA*? Has the tenant suffered some interference or disturbance of her tenancy that would entitle her to compensation or a rent reduction?

Background and Evidence

The rental unit is a one bedroom “plus den” apartment in a 105 unit apartment building.

In an earlier dispute resolution proceeding (file number on cover page of this decision) it was found that the tenancy started on July 23, 2015 for a one-year fixed tenancy ending July 30, 2016. The monthly rent is \$865.00, due on the first of each month, in advance. The landlord holds a \$432.50 security deposit.

It was found that the tenant was the only tenant though her husband also appears on the written tenancy agreement.

Shortly after the tenant and her husband moved in, the husband was removed by the police. It is my understanding that he will not be returning. The tenant testifies that when he left he took with him the mailbox key for the apartment.

She says she asked the landlord for another key but was refused. As a result she was not able to retrieve her mail for a number of months and that caused her great difficulty, as will be seen.

The tenant admits that she has not made a rent payment since October 2015.

She claims that the landlord called the welfare office and cancelled rent payments. She also testifies that because she could not retrieve her mail she was unaware that the welfare office had sent her papers to fill out, requiring her to re-apply for welfare. As a result, she was discontinued as a welfare recipient for the months October and November 2015.

The welfare office was also trying to call her by phone, but, she says, her husband took her phone along with the mailbox key.

She testifies that along with the loss of her welfare status she lost her Pharmacare coverage and had to pay \$28.95 for medications.

She says that because she lost her welfare status she could not afford to buy a transit ticket and was forced to “jump” a carriage without paying. She was caught and fined \$173.00. She seeks to recover that amount from the landlord.

The tenant testifies that Hydro power to the apartment was discontinued on August 21, 2015. The Hydro was in her husband’s name. She says the landlord had the service

discontinued. She referred to three documents from Hydro to establish that fact, but none of them indicates that Hydro was or would be discontinued because of something the landlord did or did not do. She then argues that Hydro was discontinued because she could not retrieve her mail because the landlord would not give her a mailbox key.

The tenant says she was only able to pay half of October's rent because a roommate she had invited left in anticipation of the tenancy ending as a result of the previous hearing held October 15, 2015. She has a new roommate now.

The tenant says that since her application the landlord attempted to let her old roommate into the apartment to retrieve belongings. It was without her permission. It was 8:30 in the morning. She was in bed and could hear the landlord attempting to open the door. He was unable to do so because she had added another lock system to the door to her apartment. She feels this incident to have been a violation of her privacy.

She says Mr. D.R. let himself into the apartment on September 1st. Mr. D.R. acknowledged he opened the apartment door on that date. The landlord had earlier issued a one month Notice to End Tenancy with an effective date of August 31, 2015. Though the tenant had applied to dispute the Notice (as per the file number on the cover page) she had not served her application on the landlord. When he entered on September 1, Mr. D.R. says he thought the tenancy had ended. The tenant served her application on the landlord that day.

The tenant testifies that the landlord had promised new carpeting in the suite and that without it, noise from the apartment below is coming up through a concrete floor and disturbing her.

In reply Mr. D.R. for the landlord says that a mailbox key had been given to the tenant and not her husband and that she has never approached him for another key. He says that the tenant jimmied the mailbox open "every night" to collect her mail. He refers to a photo submitted by the tenant showing the mailbox open, but with the lock in the locked position. He says that is proof that the mailbox was pried open by the tenant. He says that ultimately the mailbox failed. In October the landlord replaced the lock and gave the tenant a new key for the lock.

Though the tenant did not present evidence during the hearing regarding a claim for laundry service, Mr. D.R. says that she always had access to the laundry. The laundry room door opened with the same key as the tenant's apartment door. She would have

been required to purchase a "laundry card" to work the machines but such a card was never refused her..

Regarding Hydro, he says that the landlord could not turn it off. He has no record of any communications with Hydro about this apartment.

He says he's never refused to accept rent from the tenant.

Analysis

While I have considered all the documentary evidence adduced during the hearing and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the tenant's application and my findings about each are set out below.

There is no ground to cancel the ten day Notice. The rent had not been paid on November 1st and so the landlord acted properly to issue it. There is no dispute about the \$1325.00 amount demanded in it as the amount owing for rent as of that date. That amount was not paid within ten days after receipt of the Notice. In fact no money for rent has been paid since.

As a result, by operation of s. 46 of the *RTA* this tenancy came to an end on November 13, 2016. As the tenancy has ended, the landlord is entitled to an order of possession.

In regard to the receipt of mail, the evidence presented by the tenant, in the face of the landlord's denial, does not show on a balance of probabilities that the tenant was not receiving mail, or that the landlord was somehow preventing the tenant from receiving mail.

Even if it had been the case that the tenant was being denied a replacement key, a reasonable person would have had mail redirected by the post office to a different address, a post box or for pickup at the post office, at least until the issue had been resolved.

As a result, the tenant's claims flowing from her alleged failure to receive mail; her loss of welfare status, the loss of Pharmacare, the transit fine, the loss of income claim all must be dismissed.

The tenant's evidence regarding loss of use of the laundry facility is very slim. It was not mentioned during her testimony. In the face of the landlord's assertion that the

tenant has had full access to the laundry facility, I must find that the tenant has not proved her claim about this item on a balance of probabilities. I dismiss it.

Similarly, regarding the tenant's claim of disturbance from tenant's below, that claim is completely without particulars as to the type, frequency or amplitude of the noise. Nor is it corroborated by any concurrent note or other evidence of complaint to the landlord. In these circumstances this claim must also be dismissed.

Conclusion

The tenant's claim is dismissed. This tenancy ended on November 13, 2015 as the result of the ten day Notice to End Tenancy at issue and the landlord will have an order of possession.

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: January 10, 2016

Residential Tenancy Branch

