



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MT, CNL, MNR, RR, FF

Introduction

This hearing was convened in response to an application by the Tenant pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An order allowing more time to apply to cancel a notice to end tenancy - Section 66;
2. An Order cancelling a notice to end tenancy - Section 49;
3. Monetary Order for emergency repairs - Section 67;
4. An Order for a rent reduction for repairs, services or facilities agreed upon but not provided - Section 65; and
5. An Order to recover the filing fee for this application - Section 72.

The Landlord and Tenant were each given full opportunity under oath to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Has the Tenant applied within the time allowed to cancel a notice to end tenancy?

Is the notice to end tenancy valid?

Has the Tenant spent any money for emergency repairs?

Have any repairs been agreed upon but not provided?

Is the Tenant entitled to recovery of the filing fee?

Preliminary Matter

The Landlord states that he submitted an evidence package to the RTB on May 27, 2016 and did not give the Tenant a copy of this package.

Rule 3.15 of the RTB Rules of Procedure provides that a copy of the evidence that a respondent intends to rely on at the hearing must be given to the applicant. As the Landlord did not provide a copy of the evidence package to the Tenant I decline to consider this evidence. The Landlord is free to provide oral evidence of the matters contained in the package.

Background and Evidence

The Landlord states that he was not aware of when the tenancy started or any of the terms of the tenancy. The Landlord states that he purchased the property containing the unit on March 29, 2016 and was only told by the realtor that a person was living in the trailer on the property on a temporary basis. The Landlord states that Landlord PY is the Landlord's manager.

The Tenant states that there is no written tenancy agreement but that the tenancy started on December 15, 2013 with rent of \$900.00 payable each month. The Tenant also states that it was agreed that the Tenant would pay \$200.00 per month for hydro. The Tenant states that she has been dealing with Landlord PY as a co-owner of the property. The Tenant states that she paid \$450.00 to the previous landlord as a security deposit. The Tenant states that no filing fee was paid.

The Landlord states that on April 27, 2016 the Tenant was served with a 2 month notice for landlord's use (the "Notice"). The Landlord confirms that the reason for ending the tenancy as set out in the Notice is that the landlord intends to convert the residential property for use by a caretaker, manager or superintendent of the residential property. The Landlord confirms that his manager Landlord PT served the Notice on the Tenant.

The Landlord states that the unit, a 4 to 5 bedroom manufactured home located on an 88 acre farm will be used for temporary workers occasional accommodation in the upcoming months. The Landlord states that none of the workers will be foreign and that no workers have yet been hired. The Landlord states that other buildings on the land include a 28,000 square foot barn, another mobile home that is not livable and a small garage. The Tenant states that the barn is outfitted with washroom facilities and that both the barn and the trailer have been used previously by the farm workers.

The Tenant states that she has not claimed for any emergency repairs and that no emergency repairs were made by the Tenant. The Tenant states that the roof is leaking into at least 2 bedrooms and that the unit is starting to smell of mould. The Landlord states that the Tenant did mention a leak once but that no inspection has been made.

The Tenant states that in March 2016 it was agreed that the Tenant could install carpets in two bedrooms, paying for both the cost of materials and labour, in exchange for no rent payable for a month. The Tenant states that although the materials have been purchased the carpets have not yet been installed and that no deduction has been made from the rent. The Tenant claims the rent reduction. The Landlord states that no agreement was made.

Analysis

Section 49 of the Act provides that a tenant may dispute a notice to end tenancy for landlord's use within 15 days of receipt of that notice. As the Tenant made its application within the 15 days of receiving the notice I find that the Tenant does not require more time and I dismiss this claim.

Section 49(6) of the Act provides that a landlord may end a tenancy in respect of a rental unit if the landlord has all the necessary permits and approvals required by law, and intends in good faith, to convert the rental unit for use by a caretaker, manager or superintendent of the residential proper. Based on the Landlord's own evidence that the intention is to use the manufactured home for temporary farm workers that have not

been hired, I find that the Landlord does not have a good faith intention to convert the manufactured home for use by any caretaker, manager or superintendent of the residential property. I therefore find that the Tenant is entitled to a cancellation of the Notice and the tenancy continues.

Section 33 of the Act provides that "**emergency repairs**" means repairs that are urgent, necessary for the health or safety of anyone or for the preservation or use of residential property, and made for the purpose of repairing, inter alia, major leaks in pipes or the roof. Section 32 of the Act provides that a landlord must provide and maintain residential property in a state of decoration and repair that

(a) complies with the health, safety and housing standards required by law, and

(b) having regard to the age, character and location of the rental unit, makes it suitable for occupation by a tenant.

Although the Tenant has not sought a repair order in this application, I consider the matter of roof leaks to at least warrant an inspection, particularly where the Tenant informs that the leaks are coming into the unit. As the Landlord has been informed of a leak in the roof and has not inspected the roof to determine whether emergency repairs are necessary, I find that, the Tenant is entitled at a minimum to an inspection of the leak. I therefore order the Landlord to inspect the leaks on the roof within 2 days of receipt of this Decision and to make any necessary repairs within a timely manner. As the Tenant has not made any emergency repairs herself, I dismiss the claim and the Tenant is at liberty to make an application for emergency or other repairs and compensation should the Landlord fail to inspect and repair the unit as ordered.

While there is evidence that other repairs to the unit may have been agreed upon, as the Tenant has not completed any repairs, I find that the claim is premature and I dismiss this claim with leave to reapply. As no filing fee was paid I dismiss the claim for recovery of the filing fee.

Conclusion

The Notice is cancelled and of no effect.

I **Order** the Landlord to inspect the roof leaks within 2 days of receipt of this Decision and to make any necessary repairs.

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 30, 2016

Residential Tenancy Branch