



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL, MNDC, 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 cancelling a notice to end tenancy - Section 49;
2. A Monetary Order for compensation - Section 67; and
3. 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

Is the notice to end tenancy effective?

Is the Tenant entitled to reimbursement for emergency repairs?

Is the Tenant entitled to recovery of the filing fee?

Background and Evidence

The tenancy started in 2005. Rent of \$750.00 has been payable monthly since the onset of the tenancy.

The Landlord states that he gave the Tenant a two month notice to end tenancy for landlord’s use dated April 25, 2016 (the “Notice”) but only gave the Tenant the first page. The Landlord confirms that the Notice contained no reason for its issuance. The Landlord states that a second notice was given to the Tenant about a month later that contained both pages. The Tenant confirms receipt of a second notice but cannot recall

the date this notice was received. The Tenant states that it is her intention to dispute this notice as well. The Landlord states that the unit was sold on June 2, 2016.

The Tenant states that on February 22, 2016 the bathtub drain would not empty and the tub started to fill with water from the drain. The Tenant states that she called the Landlord once and did not receive a response so the Tenant called a plumber to fix the drain. The Tenant gave the Landlord a copy of the bill for \$101.21 and claims this amount. The Tenant did not provide an invoice as evidence for this hearing. The Landlord states that he was not notified about this plumbing issue and that he is always at home and can be reached. The Landlord states that the invoice is difficult to read and says something about hair.

The Tenant states that on May 22, 2016 the metal on the door lock broke. The Tenant states that she called the Landlord once but there was no answer and as the Tenant had things to do the Tenant purchased a lock and had a friend replace it that same day. The Tenant claims \$68.79. The Tenant states that when something goes wrong she usually panics if she cannot get through to the Landlord immediately. The Tenant states that in the past the Tenant would make repairs and the Landlord would always reimburse the costs. The Landlord states that he was not informed about this repair and the plumbing repair until now and questions why the Tenant took so long to even tell the Landlord. The Tenant states that she was not in a hurry to collect for the repairs.

Analysis

Section 52 of the Act provides that in order to be effective, a notice to end a tenancy must be in writing and must state the grounds for ending the tenancy, and when given by a landlord, be in the approved form. As the Landlord did not provide the second page of the approved form and as no reason was stated for ending the tenancy I find that the Notice is not effective to end the tenancy. I therefore cancel the Notice and the tenancy continues.

Section 33(3) of the Act provides that a tenant may have emergency repairs made only when all of the following conditions are met:

- (a) emergency repairs are needed;
- (b) the tenant has made at least 2 attempts to telephone, at the number provided, the person identified by the landlord as the person to contact for emergency repairs;
- (c) following those attempts, the tenant has given the landlord reasonable time to make the repairs.

Based on the Tenant's evidence that the Landlord was not called more than once for the emergency repairs, noting that there is no evidence that any message was left for the Landlord about either repairs and considering that the Tenant had the repairs made immediately without the Landlord's knowledge or giving the Landlord the opportunity to have the repairs made himself, I find that the Tenant is not entitled to the costs claimed and I dismiss both claims for repairs. As the Tenant's claim to cancel the Notice had merit I find that the Tenant is entitled to recovery of the **\$100.00** filing fee.

Conclusion

The Notice is not effective and is cancelled. I grant the Tenant an order under Section 67 of the Act for **\$100.00**. If necessary, this order may be filed in the Small Claims 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 09, 2016

Residential Tenancy Branch