



## DECISION

Dispute Codes      O

### Introduction

This hearing was convened to hear matters pertaining to an Application for Dispute Resolution filed by the Tenant on June 9, 2016. The Tenant filed for “other reasons”.

Upon review of the Tenant’s application for dispute resolution I note the Tenant wrote the following in the details of the dispute:

*The landlord [Landlord’s name] is evicting [Tenant’s name] for extra ordinary damage. There are no extra ordinary damage, just minor wear and tear. Landlord did not even give any written notice to fix or replace any damages. Eviction served by mail box.*

[Reproduced as written excluding Landlord’s and Tenant’s names]

Based on the aforementioned I find the Tenant had an oversight or made a clerical error in not selecting the box to request to *cancel a Notice to end tenancy issued for cause* when completing the application, as they clearly indicated their intention of seeking an order to cancel the eviction notice. Therefore, I amend the Tenant’s application to include the request to *cancel a Notice to end tenancy issued for cause*, pursuant to section 64(3)(c) of the Act.

The hearing was conducted via teleconference and was attended by the Landlord and the Tenant. Each person gave affirmed testimony. I explained how the hearing would proceed and the expectations for conduct during the hearing, in accordance with the Rules of Procedure. Each party was provided an opportunity to ask questions about the process however, each declined and acknowledged that they understood how the conference would proceed.

Both parties were provided with the opportunity to present relevant oral evidence and to ask questions. The parties were given the opportunity to settle these matters; however, the Tenant wished to proceed with his application as filed. Following is a summary of those submissions and includes only that which is relevant to the matters before me.

### Issue(s) to be Decided

1. Should the 1 Month Notice to end tenancy issued June 1, 2016 be upheld or canceled?
2. If upheld, should the Landlord be issued an Order of Possession?

## Background and Evidence

The Tenant entered into a verbal month to month tenancy agreement which began on approximately January 1, 2011. Rent was initially payable on the first of each month in the amount of \$800.00 and has subsequently been increased to \$820.00 per month. On or around January 1, 2011 the Tenant paid \$400.00 as the security deposit.

The rental unit was described as a self-contained suite located on the top level of a house. The house was built in approximately 2007 and has been owned by the Landlord since 2007. The lower level (the basement) consists of a separate self-contained rental suite.

The Landlord testified he was at the basement suite in August 2015 conducting repairs at which time he took a quick look through a window into the Tenant's suite. The Landlord stated he noticed at that time that there was damage to the rental suite. The Landlord asserted he spoke with the Tenant shortly afterwards and requested the Tenant conduct the required repairs.

The Landlord submitted that when the repairs were not completed he sought access to conduct an inspection. He stated he entered the rental unit on February 13, 2016, recorded the damage and took pictures. The Landlord stated he confronted the Tenant at that time and requested that he complete the required repairs. He said the Tenant told him that repairing the rental unit was not his priority.

The Landlord asserted the rental unit has sustained excessive damage which included, in part, the following: holes in many doors; missing doors; damaged security alarm system; wires torn out of the wall for the security system; smoke detector has been removed; multiple dents in the fridge - the Tenant admitted to punching the fridge; and elements missing from the stove.

The Landlord stated that on February 14, 2016, when the Tenant refused to conduct the required repairs, he gave the Tenant verbal notice that he had to move out. He stated the Tenant told him he would be moved out by the end of April or May 2016. When the Tenant did not vacate the Landlord stated he approached the Tenant about moving and the Tenant responded saying he was not given a proper eviction notice.

On June 1, 2016 the Landlord served the Tenant a 1 Month Notice to end tenancy for cause by placing the Notice in the Tenant's mailbox. The 1 Month Notice was issued pursuant to Section 47(1) of the Act listing an effective date of July 1, 2016 for the following reasons:

- Tenant has caused extraordinary damage to the unit/site or property park
- Tenant has not done required repairs of damage to the unit/site

The Tenant testified and confirmed there had been some damage caused to the rental unit. He asserted the doors have since been replaced.

The majority of the Tenant's submissions were unrelated to the issues surrounding the 1 Month Notice to end tenancy. He asserted he was not served pictures from the Landlord; the Landlord had attempted to increase his rent; a condition inspection report form had not been previously completed; and he was never given a notice in writing telling him to complete repairs.

Upon review of the damaged items that the Landlord listed in his testimony, the Tenant confirmed doors had holes in them and some have been replaced; there was an element or elements broken that he removed from the stove; the Tenant removed the wires from the security alarm system because the system was beeping and he did not have the code to shut it off; there was damage caused to the fridge during a party he hosted; and the Tenant confirmed he had removed the smoke detector; however, he said he has since replaced it.

### Analysis

After careful consideration of the foregoing, documentary evidence, and on a balance of probabilities I find as follows:

Upon review of the 1 Month Notice to End Tenancy, I find the Notice to be completed in accordance with the requirements of section 52 of the Act and I find that it was served upon the Tenant in a manner that complies with section 89 of the Act.

Where a Notice to End Tenancy comes under dispute, the landlord has the burden to prove the tenancy should end for the reason(s) indicated on the Notice. Where more than one reason is indicated on the Notice the landlord need only prove one of the reasons.

Section 32(3) of the Act stipulates that a tenant of a rental unit must repair damage to the rental unit or common areas that is caused by the actions or neglect of the tenant or a person permitted on the residential property by the tenant.

Section 47(1)(g) provides that a landlord may end a tenancy by giving notice to end the tenancy if the tenant does not repair damage to the rental unit or other residential property, as required under section 32(3) of the Act, within a reasonable time.

By his own submissions the Tenant confirmed the rental unit had suffered damages during this tenancy and those damages have not been repaired fully. Notwithstanding the Tenant's submission that he was not given written notice to have the repairs completed, there is no requirement under section 47(1)(g) for a tenant to be served written notice to complete repairs. Rather, the burden lies solely on a tenant to repair damage caused by the actions or neglect of the tenant or a person permitted on the

residential property by the tenant within a reasonable time. I find the Landlord provided the Tenant ample time to conduct the repairs and the Tenant simply declined or refused to do the repairs.

Based on the foregoing, I find there was sufficient evidence to prove the reasons listed on the 1 Month Notice issued June 1, 2016. Accordingly, the Tenant's Application to cancel that 1 Month Notice is dismissed.

Section 55(1) of the Act states that if a tenant makes an Application to dispute a Notice the Arbitrator **must** grant an Order of Possession if the Notice complies with the Act and the tenant's Application is dismissed.

The Landlord has been issued an Order of Possession effective **Two (2) Days after service upon the Tenant**, pursuant to section 55(1) of the *Act*. In the event that the Tenant does not comply with this Order it may be filed with the Supreme Court and enforced as an Order of that Court.

### Conclusion

For the reasons set out above, the Tenant's Application was dismissed and the Landlord was granted an Order of Possession.

This decision is final, legally binding, and 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: July 19, 2016

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Residential Tenancy Branch