



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MT, OLC, AS

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 cancel a notice to end tenancy - Section 66;
2. An Order that the Landlord comply with the Act or tenancy agreement - Section 62; and
3. An Order allowing the Tenant to sublet the unit - Section 65.

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 been given a notice to end tenancy for which the Tenant seeks more time to dispute?

Has the Tenant provided evidence that the Landlord has failed to comply with the Act or tenancy agreement?

Has the Tenant sought consent to sublet or assign the unit?

Background and Evidence

The tenancy originally started under a fixed term agreement for the tenancy to start on January 1, 2015 and to end of July 31, 2015. Rent of \$950.00 was payable on the first day of each month. At the outset of this tenancy the Landlord collected \$475.00 as a security deposit. The tenancy agreement provides that the tenancy ends on the fixed

term date and the Tenant is required to vacate the unit on that date unless the Parties enter into another agreement 45 days prior to the end of the fixed term.

A 2nd fixed term tenancy agreement for the period August 1, 2015 and ending January 31, 2016 was entered into by the Parties with the same terms, except the rent which was increased to \$960.00. A 3rd fixed term tenancy agreement for the period February 1, 2016 to January 31, 2017 was entered into by the Parties with the same terms as the 2nd agreement.

On November 21, 2016 the Landlord sent the Tenant a letter reminding the Tenant of the expiry of the tenancy and asking the Tenant to indicate in writing on or before December 15, 2016 if the Tenant plans to renew the tenancy. This letter also informs the Tenant that the Landlord will not agree to renew the tenancy if the Tenant does not provide a signed proof of recent carpet cleaning. The Landlord states that the requirement is to have professional cleaning of the carpet done.

The Tenant states that at the beginning of December 2016 the Tenant placed a letter, indicating the Tenant's agreement to renew the tenancy, inside the Landlord's office mail slot. The Tenant states that she also included in this letter notice that the carpet cleaning receipt could not be provided until the first week of January 2017. The Landlord states that they give tenants some flexibility with the timing for the provision of this receipt. The Landlord states that a 4th tenancy agreement for the period February 1, 2017 to January 31, 2018 with an increase in rent to \$995.00 was left at the Tenant's door mid-December and before December 15, 2016. The Landlord states that as the Tenant did not return the signed tenancy agreement or leave any message with the Landlord the Landlord took steps to rent the unit out to another tenant. The Tenant states that the 4th agreement was found on December 21, 2016 and that the Tenant signed the agreement. The Tenant states that the signed agreement was not given to the Landlord as they indicated that they would not sign without the cleaning receipt.

The Landlord states that despite offering the Tenant another term, the Landlord was not interested in maintaining that offer due to some past issues with the tenancy. The Tenant states that her roommate was the source of the issues and has moved out of the unit. The Landlord states that the Tenant also did not provide any details to the Landlord about the Tenant's ability to pay the rent alone or any details about another roommate or con-tenant. The Landlord confirms that they would not entertain entering into another tenancy agreement with the Tenant even if the Tenant had met the deadline to indicate an intention to want another term. The Tenant states that she left 12 messages with the Landlord to discuss entering into another tenancy but the Landlord failed to respond. The Landlord states that they did receive the messages but it was over the holiday season. The Landlord states that they told the Tenant on January 10, 2107 that they would not renew the tenancy.

Analysis

Section 34(2) of the Act provides that if a fixed term tenancy agreement is for 6 months or more, the landlord must not unreasonably withhold consent for a sublet or an assignment of the tenancy. As the Tenant provided no evidence that the Tenant was intending to move out of the unit to either sublet the unit on a temporary basis for any part of the remaining term of the tenancy or to assign the tenancy to the end of the remaining term of the tenancy I find that the Tenant has not substantiated that the Landlord was asked for consent to a sublet or assignment. I therefore dismiss the claim to sublet or assign the tenancy.

Section 62(3) of the Act provides that the director may make any order necessary to give effect to the rights, obligations and prohibitions under this Act, including an order that a landlord or tenant comply with this Act, the regulations or a tenancy agreement. Where one tenant ends a tenancy it ends for all tenants and the landlord is at liberty to enter into an agreement or not enter into another agreement with the remaining tenants.

Given the term of the 3rd tenancy agreement requiring the parties to agree by 45 days in advance of the end of the existing term and considering that nothing in the tenancy

agreement or Act that compels the Landlord to agree to another tenancy I find that the Tenant has not substantiated that the Landlord failed to comply with the tenancy agreement or the Act. I therefore dismiss the claim for an order that the Landlord comply.

Section 66 of the Act provides that a time limit established by this Act may be extended only in exceptional circumstances. As the Tenant has not provided any evidence that the Landlord served the Tenant with a notice to end tenancy, I find that the issue of a time limit does not apply. There is nothing in the Act that allows an extension of a time limit placed in the tenancy agreement in relation to entering into another fixed term and there is no evidence that the time limit for entering into another tenancy is unconscionable. I find therefore that the Tenant has failed to substantiate any right to the extension of any time limit. I therefore dismiss this claim.

Conclusion

The Tenant's application is dismissed.

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: February 10, 2017

Residential Tenancy Branch