



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

matter regarding CAPREIT
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: CNC, FF

Introduction

This hearing dealt with an application by the tenant for an order to set aside a notice to end tenancy for cause. The tenant also applied for the recovery of the filing fee.

Both parties attended the hearing and had opportunity to be heard. The tenant acknowledged receipt of evidence submitted by the landlord. Both parties gave affirmed testimony.

Issue to be Decided

Does the landlord have grounds to end this tenancy?

Background and Evidence

The tenancy began on December 01, 2012. The monthly rent is \$1,079.00 payable on the first of each month. The landlord stated that apart from rent paid late a few times, the tenant was up to date on rent payments.

The tenant testified that about eight months ago, he lost his job and had difficulty in keeping up with rent and bills. The tenant fell behind on utility bills and sometime in December, the power supply to his rental unit was discontinued. The tenant was in arrears and was unable to pay the outstanding amount and the reconnection fee.

The tenant agreed that he used the hall way plug to obtain power supply at night to enable him to use his computer. The landlord served the tenant with a warning letter on January 03, 2017. The tenant agreed that despite receiving the warning letter, he continued to use the hallway plug as a source of electricity on at least three occasions. Both parties agreed that the last time the tenant used the hallway plug was January 16, 2017.

The tenant stated that he found employment on January 09, 2017 and is now in a position to catch up on the utility arrears and the reconnection fee.

On January 23, 2017, the landlord served the tenant with a notice to end tenancy. The notice to end tenancy alleges that the tenant has put the landlord's property at significant risk and has engaged in illegal activity that is likely to damage the landlord's property. The tenant made application to dispute this notice in a timely manner.

The tenant agreed that he had used the hallway plug as a source of electricity but stated that other than this infraction, he was a good tenant for more than four years. The tenant stated that he had intentions of paying his outstanding hydro bill and reconnection fee and would like to continue as a tenant in this rental unit.

The landlord agreed that there has not been any such activity since January 16, 2017 leading up to this hearing.

Analysis

In order to support the notice to end tenancy, the landlord must prove at least one of the grounds alleged, namely that alleges that the tenant has put the landlord's property at significant risk and has engaged in illegal activity that is likely to damage the landlord's property.

Based on all the evidence before me, I accept that the tenant behaved in an inappropriate manner when he utilized a hallway plug as a source of power. From the evidence and testimony of both parties, I find that the tenant was a responsible tenant for the better part of his four year plus tenancy and it appears that the tenant fell upon hard times when he lost his job and was unable to pay his utility bill. I further find that this situation was isolated and had not occurred before and that using power from a hallway plug is not an ongoing pattern of behaviour for this tenant.

I also find that the tenant agreed that he had behaved inappropriately and spoke of his intentions to remedy his situation. Both parties agreed that the tenant had not used the hallway plug for over a month prior to this hearing.

While I accept that the tenant behaved badly, I am not satisfied that the actions of the tenant justify bringing this tenancy to an end. I therefore allow the tenant's application and set aside the landlord's notice to end tenancy dated January 23, 2017. As a result, the tenancy shall continue in accordance with its original terms.

The tenant would be wise to refrain from giving the landlord and other occupants of the residential complex, reason to complain. I find it timely to put the tenant on notice that, if such behaviours were to occur again in the future and another notice to end tenancy issued, the record of these events would form part of the landlord's case should it again come before an Arbitrator, for consideration.

Since the tenant is successful in his application, I award him the recovery of the filing fee of \$100.00.

Conclusion

The notice to end tenancy is set aside and the tenancy will continue.

The tenant may make a one-time deduction of \$100.00 from a future rent.

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 24, 2017

Residential Tenancy Branch