



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC MNDC OLC RP

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 47;
- a monetary order for compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;
- an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement pursuant to section 62; and
- a monetary order for the cost of emergency repairs to the rental unit pursuant to section 33.

The landlord's son, AG ('the landlord'), testified on behalf of the landlord in this hearing and was given full authority to do so by the landlord. Both parties were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another.

The landlord confirmed receipt of the tenant's application for dispute resolution hearing package ("Application") and evidence. In accordance with sections 88 and 89 of the *Act*, I find that the landlord was duly served copies of the tenant's application and evidence. The landlord did not submit any written evidence for this hearing.

The landlord gave undisputed sworn testimony that the 1 Month Notice to End Tenancy for Cause (the 1 Month Notice), with an effective date of January 31, 2017 was served to the tenant on December 15, 2016 by posting it on the tenant's door. Accordingly, I find that the 1 Month Notice was served to the tenant in accordance with section 88 of the *Act*.

During the hearing, the tenant advised that his application for dispute was filled out by an advocate on his behalf, and that he had no submissions to make except in regards to

the cancellation of the landlord's 1 Month Notice. I confirmed with the tenant whether he was still seeking a monetary order, as well as an application for the landlord to make repairs to the suite or comply with the *Act*. The tenant stated that he had no knowledge of the other applications other than the one to cancel the landlord's 1 Month Notice. Based on this testimony, I find that the tenant has withdrawn his application except for the cancellation of the landlord's 1 Month Notice.

At the hearing, the landlord confirmed that he was seeking an end to this tenancy on the basis of the 1 Month Notice and the issuance of an Order of Possession.

Issues

Should the landlord's 1 Month Notice be cancelled?

If not, is the landlord entitled to an Order of Possession?

Background and Evidence

This month-to-month tenancy began some time in 2013, with monthly rent currently set at \$500.00 per month, payable on the first of each month. No security deposit was ever requested by the landlord. The landlord lives on the main floor, while the tenant resides in the basement rental suite.

The landlord submitted the notice to end tenancy providing two grounds:

1. the tenant or a person permitted on the property by the tenant has put the landlord's property at significant risk, and
2. the tenant or a person permitted on the property by the tenant has engaged in illegal activity that has, or is likely to damage the landlord's property.

The landlord testified that the tenant has caused damage to the suite, including the carpet, which now needs to be replaced. The landlord submitted that the vacuum was broken, and the tenant has now covered the carpet in a sheet. He testified that the tenant's possessions were piled up in the corner, and that the cupboards and counters were full. The tenant had caused the fire alarm to go off on three to four occasions, disturbing all the occupants of the home, which was stressful on the landlord as he had to work in the morning.

The landlord further testified that the bathroom has not been cleaned, and that the entire home was covered in dust. The landlord believed the tenant never cleaned, and based on his previous experience the tenant may be causing very costly damage to suite. The landlord submitted that the tenant's definition of clean was not satisfactory, and that piling stuff in the corner was not acceptable considering how little furniture the tenant had. The landlord did not mention in his oral testimony when and whether he

had conducted inspections of the rental suite, nor did he provide any written evidence confirming this.

The tenant disputed the landlord's testimony and testified that he kept the home in a very organized manner. He testified that he cleaned the home every day, and that the landlord had an issue with him because he was learning the Arabic language.

The landlord disputes the testimony of the tenant saying that the 1 Month Notice had nothing to do with the tenant's desire to learn another language. The landlord was concerned that damage has been done to the property as he believed the tenant has not cleaned his unit properly. The landlord did not indicate during the hearing whether he had provided the tenant with any warning letters, nor were any submitted as part of the landlord's evidence.

Analysis

Section 47 of the *Residential Tenancy Act* allows the landlord to end a tenancy for cause:

47 (1) *A landlord may end a tenancy by giving notice to end the tenancy if one or more of the following applies...*

(d) the tenant or a person permitted on the residential property by the tenant has...

(iii) put the landlord's property at significant risk;

(e) the tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that...

(i) has caused or is likely to cause damage to the landlord's property...

Section 46 of the *Act* provides that upon receipt of a notice to end tenancy for cause the tenant may, within ten days, dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. The tenant filed his application on December 22, 2016, seven days after receiving the 1 Month Notice. As the tenant filed his application within the required period, and having issued a notice to end this tenancy, the landlord has the burden of proving he has cause to end the tenancy.

Although the landlord provided oral testimony that the tenant has neglected to clean his suite, and as a result has caused damage to it, he did not provide sufficient evidence or details to support that assertion. The landlord did not provide any witness testimony, nor did he submit any written evidence or photos to support his claims that the tenant has

put his property at risk. The landlord did not indicate in this hearing, nor did he submit any reports, photos, or any written evidence to support whether he had conducted any inspections. The landlord also did not indicate whether any warning letters have been given to the tenant. In the absence of any supporting evidence, I am not satisfied that the landlord had demonstrated how the tenant had put the landlord's property at significant risk, especially to a degree that is serious enough to warrant terminating this tenancy.

The landlord had also cited that the tenant had engaged in illegal activity as a reason for ending this tenancy. The landlord did not provide any testimony, nor did he submit any written evidence, in support of this claim. Although the landlord mentioned the disturbance of the fire alarm, and the lack of cleanliness of the suite, no details were provided to explain what illegal activities the tenant had participated in. In the absence of this information, and sufficient evidence, I find the landlord has not established that the tenant had engaged in any illegal activity.

Under these circumstances, I am allowing the tenant's application to cancel the landlord's 1 Month Notice, and this tenancy is to continue as per the *Act*.

Conclusion

I allow the tenant's application, and the 1 Month Notice is cancelled. The 1 Month Notice of December 15, 2016 is of no force or effect. This tenancy continues until ended in accordance with the *Act*.

The remainder of the tenant's application is withdrawn.

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 20, 2017

Residential Tenancy Branch