



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, MNDC, MNSD, O

Introduction

This is an application brought by the tenant requesting an order canceling a Notice to End Tenancy that was given for cause, and requesting a monetary order for \$7500.00.

A substantial amount of documentary evidence, photo evidence, and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all relevant submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

The parties were affirmed.

Issue(s) to be Decided

First of all it is my decision that I will not deal with all the issues that the applicant has put on this application.

Section 2.4 of the rules of procedure states:

Claims made in the application must be related to each other. Arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.

In this case it is my finding that not all the claims on this application are sufficiently related to the main issue to be dealt with together.

I therefore will deal with request to cancel a Notice to End Tenancy, and I dismiss the remaining monetary claim with liberty to re-apply.

Background and Evidence

This tenancy began on April 1, 2015 and the present monthly rent is \$1000.00, due on the first of each month.

The landlord testified that, the tenant rents the upstairs of the building, and he lives in the downstairs, however the tenant has access to the lower unit to use the washer and dryer.

The landlord further testified that the tenant got into the habit of coming into his suite without permission, sometimes in the middle of the night, even entering his room. It got to the point where he had to put a chair against the bedroom door to ensure the tenant did not come in.

The landlord further testified that, he warned the tenant that this behavior had to stop and it slowed for a while, but then she started all over again.

The landlord further testified that the tenant is a heavy drinker and drinks far too much, often getting very drunk. On one occasion she came down into his rental unit extremely drunk and could not even make it back up the stairs. He therefore assisted her up into her rental unit and when he got there he found the bottle of his rum in her rental unit.

The landlord further testified that he had never given the tenant permission to take the bottle of rum; she had simply come into his rental space when he was away and stolen it.

The landlord stated that once he discovered the tenant had stolen from him, he decided it was time to end this tenancy, and therefore on April 9, 2017 he personally served her with the Notice to End Tenancy.

The landlord stated that he still wants this tenancy ended and would like an Order of Possession.

The tenant testified that she had a friendship with the landlord, and only on a couple of occasions has she ever entered his rental unit without his permission, and she has never attempted to enter his bedroom.

The tenant further testified that she had been going through a very difficult time as she was unemployed and finding it very difficult to find a job. She thought she had found a job; however she was informed that she did not have the job, and therefore on that day she felt she needed a drink and so she did take a partial bottle of rum from the landlord suite without his permission.

The tenant further testified that when the landlord confronted her about taking the rum, she apologized to him and she replaced the partial bottle with a full bottle of rum, and therefore she does not believe it was theft, she was simply borrowing.

The tenant is therefore asking that this Notice to End Tenancy be canceled and that the tenancy continue.

In response to the tenant's testimony the landlord testified that the tenant came into his rental unit, without his permission, on numerous occasions, and, as he stated before, even came into his bedroom, stating that she wanted to cuddle. He was very uncomfortable with the situation and had told the tenant that it was not to continue.

The landlord further stated that he wants this tenancy ended however he does not want her to be homeless, and therefore he is willing to allow the tenant to stay until the end of June 2017.

Analysis

It is my finding that the landlord does have the right to end this tenancy as the tenant took some liquor that belong to the landlord without getting any permission to do so.

The tenant argues that she only borrowed the liquor as she subsequently replaced it however that is not a reasonable argument as there is nothing to show that she would have replace the liquor had the landlord not discovered that she had taken it.

The tenant further argued that it is not really theft as they had a friendship, however it is my finding that it is theft, and the tenant took advantage of the landlord's good nature to enter his rental unit and steal from the landlord when he was not present.

It is my decision therefore, pursuant to section 62 of the Residential Tenancy Residential Tenancy Act, that I will not cancel this Notice to End Tenancy, and this application to cancel the Notice to End Tenancy is therefore dismissed.

Section 55 of the Residential Tenancy Act states:

- 55** (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant to the landlord an order of possession of the rental unit if
- (a) the landlord's notice to end tenancy complies with section 52 [*form and content of notice to end tenancy*], and
 - (b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

In this case I have examined the Notice to End Tenancy and it is my finding that it does comply with section 52 of the Act.

Conclusion

I have dismissed this application to cancel the Notice to End Tenancy without leave to re-apply, and, having determined that the landlord's notice to end tenancy complies with section 52 of the Act, I have issued an Order of possession, pursuant to Section 55 of the Act, for 1:00 p.m. on June 30, 2017.

As stated above, the monetary portion of this application is dismissed with leave to reapply.

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: May 29, 2017

Residential Tenancy Branch