



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding DON WON APT. LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC, FF, OLC, PSF, 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;
- an order requiring the landlord to comply with the Act, regulation or tenancy agreement pursuant to section 62;
- an order to the landlord to provide services or facilities required by law pursuant to section 65;
- an order requiring the landlord to return the tenant's personal property pursuant to section 65;
- authorization to recover his filing fee for this application from the landlord pursuant to section 72.

Both parties attended the hearing via conference call and provided affirmed testimony. The tenant did not submit any documentary evidence. The landlord submitted documentary evidence, late which the tenant has confirmed receiving. As such, I am sufficiently satisfied that both parties have been served as per section 90 of the Act.

At the outset it was clarified with both parties that the tenant's request for a return of personal property (RP) was made in error and need not be addressed. It was also clarified with both parties that as neither party submitted a copy of the notice to end tenancy for cause, nor has either party provided any details of the notice to end tenancy that the tenant's request (CNC) shall be dismissed with leave to reapply. Both parties were cautioned that leave to reapply for (CNC) was not an extension of any applicable limitation period. It was also clarified that the tenant's request (PSF) was for repair to a faucet was also dismissed with leave to reapply as it was not included in any

of the details of the tenant's application for dispute. The hearing continued with only the 2 items requested by the tenant (OLC) to have the landlord provide proper notice when the water would be shut-off and when construction/repairs would take place in the rental property that would affect her tenancy.

Issue(s) to be Decided

Is the tenant entitled to an order for the landlord to comply with the Act, Regulations or tenancy agreement?

Is the tenant entitled to a monetary order for recovery of the filing fee?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

Neither party provided any details of the tenancy.

The tenant seeks an order for the landlord to comply with the Act, Regulations or tenancy agreement for:

- 1) The landlord must provide proper notice when the water is shut-off to her rental premises.
- 2) The landlord must provide proper notice when construction/repairs occur on the rental that affected her use of the rental.

The tenant claims that over a 2 month period the landlord has repeated shut-off the water to her rental premises without notice. The landlord disputes this stating that the only time water was shut-off just 2 days prior to the hearing due to emergency pipe repairs.

The tenant claims that the landlord has construction in the building where there are holes in the drywall and nails on the floor. The landlord disputes this stating that although there has been construction/repair in the rental building that after each job the work site was cleaned.

Analysis

Section 32 of the Act requires a landlord to maintain residential property in a state of decoration and repair that complies with the health, safety and housing standards required by law, and having regard to the age, character and location of the rental unit, makes it suitable for occupation by the tenant.

The tenant claims that the landlord has failed to provide proper notice of when water would be shut-off and when construction/repairs would occur that would affect her tenancy.

The onus or burden of proof lies with the party who is making the claim. When one party provides evidence of the facts in one way and the other party provides an equally probable explanation of the facts, without other evidence to support their claim, the party making the claim has not met the burden of proof, on a balance of probabilities, and the claim fails.

In this case, the tenant has provided affirmed testimony of her claim, while the landlord has provided affirmed testimony of her dispute over this claim. I find on a balance of probabilities that the tenant has failed to provide sufficient evidence to satisfy me. As such, I find that the tenant's application is dismissed.

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: June 01, 2017

Residential Tenancy Branch