



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, AAT, OPR, OPC, MND, MNR, FF

Introduction

This hearing was convened in response to an application by the Tenant and an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”).

The Tenant applied on June 1, 2017 for:

1. An Order cancelling a notice to end tenancy - Section 47; and
2. An Order allowing access for the Tenant’s guests - Section 70.

The Landlord applied on July 4, 2017 for:

1. An Order of Possession - Section 55;
2. A Monetary Order for unpaid rent or utilities - Section 67;
3. A Monetary Order for damage to the unit - Section 67; and
4. An Order to recover the filing fee for this application - Section 72.

The Landlord did not attend the hearing to pursue its claims. As a result I dismiss the Landlord’s application.

I accept the Tenant’s evidence that the Landlord was served in person on June 5, 2017 with the Tenant’s application for dispute resolution and notice of hearing. The Tenant was given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the notice to end tenancy effective?

Is the Landlord breaching the Tenant’s right to privacy?

Background and Evidence

At the outset of the tenancy the Tenant had pets. The Landlord did not ask for any damage deposit or pet deposit at the outset of the tenancy. The Landlord was aware that the Tenant was moving into the unit with pets. On May 22, 2017 the Landlord gave the Tenant a one month notice to end tenancy for cause (the "Notice"). The Notice does not set out an effective date.

From the onset of the tenancy the Landlord has been stopping the Tenant's guests and delivery persons and asking them their names and purposes for being at the Tenant's unit. The Landlord's entrance is at the front of the building and the Tenant's entrance is at the back. The Landlord's behavior is disturbing both the Tenant and her guests. The Tenant asks for an order that the Landlord not make such enquiries of the Tenant's guests and to allow her guests free access to the unit.

The Tenant paid the rent for July 2017 and did not receive any 10 day notice to end tenancy for unpaid rent in the approved form.

Analysis

Section 52 of the Act provides that in order to be effective a notice to end a tenancy must be in writing and must, inter alia, state the effective date of the notice and, when given by a landlord, be in the approved form. Where a tenant disputes a notice to end tenancy the burden of proof in relation to the effectiveness or validity of the notice lies with the landlord. In addition to the Landlord not attending the hearing to provide evidence in relation to the Notice, the Notice does not contain an effective date. For these reasons, I find that the Notice is not effective in ending the tenancy and the tenancy continues.

Section 28 of the Act provides that a tenant is entitled to quiet enjoyment including, but not limited to reasonable privacy, freedom from unreasonable disturbance, and

exclusive possession of the rental unit subject only to the landlord's right to enter the rental unit in accordance with the Act. Section 62(3) of the Act provides that an order necessary to give effect to the rights, obligations and prohibitions under this Act may be granted including an order that a landlord comply with this Act, the regulations or a tenancy agreement. Based on the undisputed evidence of the Landlord's questioning of the Tenant's guests I find that the Landlord is not respecting the Tenant's rights to privacy and quiet enjoyment of her unit. I therefore order the Landlord to immediately refrain from any form of uninvited interaction with any of the Tenant's guests or to refrain from questioning any person who attends the Tenant's unit. Should the Landlord fail to act as ordered the Tenant has leave to reapply for compensation.

Conclusion

The Notice is not effective and the tenancy continues.

I order the Landlord to refrain from any form of uninvited interaction with any of the Tenant's guests or to refrain from questioning any person who attends the Tenant's unit.

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: July 20, 2017

Residential Tenancy Branch