



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ASHURWIN HOLDINGS LTD. / RPM INC.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC, FF

Introduction

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

- authorization to recover the filing fee for this application from the landlord, pursuant to section 72 of the *Act*.
- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 47

Both parties attended the hearing and 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. Neither party submitted any documentary evidence for this hearing.

Issue(s) to be Decided

Is the tenant entitled to have the One Month Notice to End Tenancy for Cause set aside? If not, is the landlord entitled to an order of possession?

Is the tenant entitled to recover the filing fee for this application?

Background and Evidence

The tenant gave the following testimony. This tenancy began on March 1, 2017 and is ongoing. The tenant testified that on July 1, 2017 he and some friends wanted to watch the Canada Day Fireworks from the rooftop of the building. The tenant testified that within three or four minutes of being on the roof the resident manager asked them to come down, which they did. The tenant testified that it was calm and respectful situation

that he thought was over and done with. The tenant testified that he didn't receive any verbal or written warnings for this incident but was served 27 days later with an "eviction notice". The tenant testified that it was a one-time thing and that nothing of this nature had occurred prior or since July 1, 2017. The tenant requests the notice be set aside and that the tenancy continues.

The landlords' agent gave the following testimony. The agent testified that they had received numerous phone calls about intoxicated people running on the roof on July 1, 2017. The agent testified that the tenants accessed a restricted area. The agent testified that a One Month Notice to End Tenancy for Cause was issued on July 27, 2017 with an effective date of August 31, 2017 on the following grounds:

Tenant or a person permitted on the property by the tenant has:

- *significantly interfered with or unreasonably disturbed another occupant or the landlord;*
- *seriously jeopardized the health or safety or lawful right of another occupant or the landlord;*
- *put the landlord's property at significant risk.*

The agent testified that the tenants could have fallen through the roof injuring themselves or people below. The landlord requests an order of possession.

Analysis

Section 47 says a landlord may end a tenancy by giving notice to end the tenancy for a number of reasons. The landlord has the burden of providing sufficient evidence to support the issuance of the notice. In the case before me neither party has supplied a copy of the One Month Notice to End Tenancy for Cause. However, both parties confirmed the dates, content and form of the Notice and the hearing proceeded and completed in the allotted time. The landlords' agent did not dispute that this was a onetime occurrence and that it was only several minutes in nature. In addition, the landlords' agent did not allege any other incidents of similar or like behaviour. Although the tenants' actions may have been ill advised and should not be repeated, I find that that the landlord has not provided sufficient evidence to end the tenancy on the grounds as alleged. The tenancy continues.

As the tenant has been successful in their application they are entitled to the recovery of the \$100.00 filing fee. The tenant is entitled to a one time rent reduction of \$100.00 from the next rent due payment.

Conclusion

The One Month Notice to End Tenancy for Cause is set aside. The Notice is of no effect or force. The tenancy continues.

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: October 23, 2017

Residential Tenancy Branch