Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

<u>Dispute codes</u> CNC MNR MNDC OLC LAT RR

<u>Introduction</u>

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

- cancellation of a 1 Month Notice to End Tenancy For Cause, pursuant to section 47
- a monetary order for the cost of emergency repairs to the rental unit pursuant to section 33;
- a monetary order for money owed or 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;
- authorization to change the locks and/or to suspend or set conditions on the landlord's right to enter the rental unit pursuant to section 70;
- an order to allow the tenant(s) to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65;

The hearing was conducted by conference call. All named parties attended the hearing and were given a full opportunity to provide affirmed testimony, to present evidence and to make submissions. No issues were raised with respect to the service of the tenant's application or evidence on file. The landlord made no submission of evidence in response to the tenant's application.

The tenant's application was filed within the time period required under the Act.

<u>Preliminary Issue – Scope of Application</u>

Residential Tenancy Branch Rules of Procedure, Rule 2.3 states that, if, in the course of the dispute resolution proceeding, the Arbitrator determines that it is appropriate to do so, the Arbitrator may sever or dismiss the unrelated disputes contained in a single application with or without leave to apply.

Aside from the application to cancel the Notice to End Tenancy, I am exercising my discretion to dismiss the remainder of the issues identified in the tenants' application with leave to reapply as these matters are not related. Leave to reapply is not an extension of any applicable time limit.

<u>Issues</u>

Should the landlord's 1 Month Notice be cancelled? If not, is the landlord entitled to an order of possession?

Background and Evidence

The rental unit is a bachelor suite in an eight unit rental building. The tenancy began on August 17, 2017 with a monthly rent of $500.00 payable on the 1st day of each month.

The landlord served the tenant with the 1 Month Notice on October 1, 2017. The landlord issued the Notice on the following grounds:

- the tenant or a person permitted on the residential property by the tenant has
    (i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property,
    (ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant, or
    (iii) put the landlord's property at significant risk;

- 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,
    (ii) has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property, or
    (iii) has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;

- the tenant or a person permitted on the residential property by the tenant has caused extraordinary damage to a rental unit or residential property;

The landlord testified that shortly after the tenant moved in there was an incredible amount of traffic from sex trade workers and drug dealers, noise disturbances, complaints from other tenants and neighboring businesses. The landlord testified the tenant is very combative and very unreasonable when approached with concerns by the landlord. The landlord testified she had a police file # for a reported incident but no report was submitted as evidence.

The landlord's witness testified that there is always people coming and going from the rental unit crating lots of traffic. The landlord's witness also testified to an incident of a threat of a stabbing from people outside the rental unit.

The tenant disputed the allegations made by the landlord and denied carrying on any illegal activity. The tenant testified the landlord is just trying to railroad him for an eviction.

Analysis

Section 47 of the Act contains provisions by which a landlord may end a tenancy for cause by giving notice to end tenancy. Pursuant to section 47(4) of the Act, a tenant may dispute a 1 Month Notice by making an application for dispute resolution within ten days after the date the tenant received the notice. If the tenant makes such an application, the onus shifts to the landlord to justify, on a balance of probabilities, the reasons set out in the 1 Month Notice.

The landlord did not provide any supporting documents in support of the allegations presented. The landlord did not provide any documented complaints received by other tenants or neighbors. The landlord did not provide any police reports of the alleged illegal activity. The landlord did not provide any documented incidents or warning issued to the tenant for the alleged noise disturbances or increased traffic in the rental building. The landlord did not present any testimony or evidence in respect to the grounds that the tenant or a person permitted on the property by the tenant caused extraordinary damage to the rental unit.

Accordingly, I find the landlord presented insufficient evidence to justify that there was cause to issue the 1 Month Notice.

Conclusion

I allow the tenant's application to cancel the landlord's 1 Month Notice, dated October 1, 2017, which is hereby cancelled and of no force or effect. This tenancy continues until it is ended in accordance with the *Act*.

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: December 13, 2017

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Residential Tenancy Branch