



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNC, ERP

Introduction:

The Application for Dispute Resolution filed by the Tenant seeks the following:

- a. An order to cancel the one month Notice to End Tenancy dated March 13, 2018
- b. An order for emergency repairs.

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

I find that the one month Notice to End Tenancy was personally served on the Tenant on March 13, 2018. Further I find that the Application for Dispute Resolution/Notice of Hearing was personally served on the landlord on March 16, 2018 or March 19, 2018 as the landlord acknowledged service of the documents. With respect to each of the applicant's claims I find as follows:

Issues to be Decided:

The issues to be decided are as follows:

- a. Whether the tenant is entitled to an order cancelling the Notice to End Tenancy dated March 13, 2018?
- b. Whether the tenant is entitled to an order for emergency repairs?

Background and Evidence:

The tenancy began on June 1, 2013. The tenancy agreement provided that the tenant(s) would pay rent of \$550 per month payable in advance on the first day of each month. The tenant(s) paid a security deposit of \$275 and a pet damage deposit of \$275 at the start of the tenancy.

Grounds for Termination:

The Notice to End Tenancy identifies the following grounds:

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

...

- seriously jeopardized the health or safety or lawful right of another occupant or the landlord
- put the landlord's property at significant risk

The landlord seeks to end the tenancy based on the following:

- The landlord acknowledged there is a heating problem of the 4th floor of the rental property and the owner of the building purchased an electric heater for the Tenant to use as he was getting insufficient heat.
- However, the landlord testified the owner told the Tenant he could temporarily use the electrical outlet outside of his room. However, the tenant continued to use this outlet even after the landlord told him not to.
- The landlord stated they would compensate him for any additional hydro costs that he might incur using the outlet in the room.
- Another tenant has used the outlet in the hall and this caused the breaker to activate.

The tenant testified as follows:

- The owner purchased the electric heater and gave it to the Tenant to use. The owner told the Tenant that he could use the outlet outside of his room in the hallway. He did not tell the Tenant that this was to be temporary. He only did what was instructed.
- He pays for the cost of hydro. Heat is included with the rent.

Analysis:

After carefully considering all of the evidence I determined the landlord failed to establish sufficient cause to end the tenancy for the following reasons:

- The owner purchased the electric heater and told the Tenant he could use the outlet in the hall.
- The landlord failed to provide sufficient evidence to prove that the action of the Tenant has seriously jeopardized the health and safety of another occupant or the landlord or has put the landlord's property at significant risk. The use of the outlet in the hall had previously been proposed by the landlord.

As a result I ordered that the one month Notice to End Tenancy dated March 13, 2018 be cancelled. The tenancy shall continue with the rights and obligations of the parties remaining unchanged.

However, the landlord stated that they are prepared to pay the Tenant any additional costs that he might incur for using the outlet in his room. It seems this would be a preferred way of dealing with the electric heater as it would reduce the likelihood of the breaker for the hall being activated and it would reduce security concerns.

The tenant applied for an order for emergency repairs. I determined it was appropriate to sever this claim with leave to re-apply. The parties seem content for the Tenant to use an electric heater. The tenant failed to provide evidence as to whether the temperature in his room is inadequate when using the electric heater and whether the use of the electric heater has adversely affected his health. Neither party presented evidence as to what was wrong with the heat on the fourth floor and the cost to repair it. Given lack of evidence I determined it was appropriate to sever this claim with leave to re-apply.

Conclusion:

In conclusion I ordered that the Notice to End Tenancy dated March 13, 2018 be cancelled. The tenancy shall continue with the rights and obligations of the parties remaining unchanged. I dismissed the claim for emergency repairs with leave to re-apply. .

This decision is final and binding on the parties.

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: April 16, 2018

Residential Tenancy Branch