



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding FIBRO HOLDINGS LIMITED
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNL, MNDC, OLC

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant filed under the Residential Tenancy Act (the “Act”), to cancel Two Month Notice to End Tenancy for Landlord’s Use of Property (the “Notice”) issued on March 31, 2018, and for a monetary order for compensation for loss under the Act.

Both parties appeared, gave testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

In a case where a tenant has applied to cancel a Notice, Rule 7.18 of the Residential Tenancy Branch Rules of Procedure require the landlord to provide their evidence submission first, as the landlord has the burden of proving sufficient evidence to terminate the tenancy for the reasons given on the Notice.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to the relevant facts and issues in this decision.

Issues to be Decided

Should the Notice issued be cancelled?

Is the tenant entitled to monetary compensation?

Background and Evidence

The tenancy began in the summer of 2015. Rent in the amount of \$545.00 was payable on the first of each month. The tenant paid a security deposit of \$262.50.

The parties agreed that the Notice was served on the tenant indicating that the tenant is required to vacate the rental unit on June 1, 2018.

The reason stated in the Notice was that:

- The landlord has all necessary permits and approvals required by law to demolish the rental unit, or renovate or repair the rental unit in a manner that requires the rental unit to be vacant.

The landlord's agent testified that they purchased the property in 2017 and that the property was run down at the time. The agent stated that the property was built in 1950, and in need of major repairs. The agent stated that repairs have been made such as replacing the roof and other exterior work. However, they have determined that the copper water pipes and sewer pipes need to be replaced as they are leaking.

The landlord's agent stated that they are an engineer and their brother is a plumber and the only way to make the repairs is by removing all the drywall from the subject unit, including the ceiling, as it is on the main floor and is where the main water and sewer line runs through this rental unit to adjacent units. The agent stated that no permits are required as these are existing fixtures.

The landlord's agent testified that it would make no sense to rip out the flooring in the unit above to access the pipes below or remove the drywall from the adjacent unit, when everything is accessible in the subject unit.

The tenant testified that the only reason why the landlord wants to evict them is because they had issues with the occupant above them.

The landlord's agent testified that is not the case, as the occupant was very difficult and has been evicted.

Monetary claim

The tenant testified that there is a trap door in their rental unit and someone accessed their unit through the door breaking their stereo. The tenant stated that the stereo has not been moved, but when they put a disc in to disc player, the disc is unreadable. The tenant stated someone must have bent the inside of the disc player.

The landlord's agent testified that the trap door is an old fire exit, which is sealed on the inside of the tenant's unit. The agent stated that the tenant complains that someone is accessing the unit, which includes coming in while the tenant is asleep and removing their earplugs and placing them on the nightstand. The landlord stated this is unfounded.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

How to end a tenancy is defined in Part 4 of the Act. Section 49(1) of the Act a landlord may end a tenancy by giving notice to end the tenancy.

I have considered all of the written and oral submissions submitted at this hearing, I find that the landlord has provided sufficient evidence to show that:

- The landlord has all necessary permits and approvals required by law to demolish the rental unit, or renovate or repair the rental unit in a manner that requires the rental unit to be vacant.

I accept the evidence of the landlord's agent that the premise was built in 1950 and the copper pipes are leaking and need to be replaced. I find this reasonable as the pipes are almost 70 years old and past their useful lifespan due to the aging process. The tenant did not dispute this.

I further accept that the tenants unit is the main access to the pipes and sewer line as this unit is on the ground floor. I find it is reasonable to make the repairs by access the main unit, as this has less impact on the other occupants.

I further accept that no permits are required as this is to replace existing pipes in the building. I find that due to the removal of all the drywall to access the adjacent units that the rental unit requires to be vacant.

While the evidence of the tenant was the landlord is only evicting them as a result of the other occupant above them, I find that is unsubstantiated as the landlord has already evicted the other occupant and there was no ulterior motive present, such as increasing the rent.

I find the Notice issued on March 31, 2018 has been proven by the landlord and is valid and enforceable. Therefore, I dismiss the tenant's application to cancel the Notice.

As the landlord has accepted occupancy rent for the month of June 2018, I find it appropriate to extend the effective vacancy date in the Notice to June 30, 2018,

pursuant to section 66 of the Act. Therefore, I find the landlord is entitled to an order of possession effective on the above extended vacancy date.

Since I have dismissed the tenant's application, I find that the landlord is entitled to an order of possession effective **June 30, 2018, at 1:00 P.M.** This order must be served on the tenant and may be filed in the Supreme Court.

At the conclusion of the hearing the landlord indicated that they would return to the tenant June 2018, rent today. As that will be their compensation for receiving the Notice and will assist the tenant with relocating.

Monetary compensation

In this case, the evidence of the tenant was that someone is access their unit through the trap door that was built for a fire exit in 1950.

I find the tenant presented no supporting evidence that someone is access their unit or that they caused damage to their stereo. I find it highly unlikely that someone would enter their unit simply to bend the disc player. Therefore, I dismiss the tenant's claim for compensation for their stereo.

Conclusion

The tenant's application to cancel the Notice is dismissed. The landlord is granted an order of possession.

The tenant's application for monetary compensation 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 15, 2018

Residential Tenancy Branch