



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNC, RP, FF

Introduction

This hearing dealt with an application by the tenant pursuant to the *Residential Tenancy Act*, for an order to set aside a notice to end tenancy and for an order directing the landlord to carry out repairs. The tenant also applied for the recovery of the filing fee.

Both parties attended this hearing and were given full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. Both parties represented themselves.

As both parties were in attendance I confirmed service of documents. The landlord confirmed receipt of the tenant's application for dispute resolution and evidence. The landlord stated that he had not submitted any evidence of his own. I find that the landlord was served with the tenant's materials in accordance with sections 88 and 89 of the *Act*.

During the hearing the tenant informed me that she was no longer seeking an order directing the landlord to carry out repairs and accordingly, this portion of the tenant's application is dismissed.

Issue to be Decided

Does the landlord have grounds to end this tenancy? Is the tenant entitled to the recovery of the filing fee?

Background and Evidence

The tenancy began in September 2016. The rental unit consists of one of two single bedroom suites located in the lower level of a two level house. The upper level is rented out separately. The monthly rent is \$700.00 payable in advance on the last day of the month. On April 19, 2018, the landlord served the tenant with a notice to end tenancy for cause. The tenant applied to dispute the notice in a timely manner.

The reasons for the notice to end tenancy are that the tenant has significantly interfered with or unreasonably disturbed another occupant and that the tenant has engaged in illegal activity that has adversely affected the quiet enjoyment, security, safety or physical well-being of another occupant. The landlord did not file any documentary evidence to support the reasons for wanting the tenancy to end.

During the hearing the landlord testified that the reason for the notice to end tenancy was that he had received multiple complaints from the other occupants of the rental property and previous tenants about the “antics” of the tenant. The landlord read out a letter written by the occupant of the other suite on the lower level. The letter mainly described the behavior of the tenant as argumentative and mean. The landlord stated that the behavior of the tenant caused at least four tenants to move out. The landlord did not describe any specific behavior or any illegal activity that the tenant allegedly engaged in as check marked on the notice to end tenancy.

The landlord stated that he suspected that the tenant had complained to the local municipality about an illegal suite in the home. Municipal inspectors visited the home and requested the landlord to remove the second one bedroom suite in the lower level of the home. The landlord stated that effective July 01, 2018, he would no longer receive income from this suite and therefore he intended to convert the tenant’s suite into a two bedroom suite that would fetch a higher rent. The landlord admitted that this was also a reason for his wanting to end the tenancy.

The tenant stated that most of the allegations in the letter that the landlord read out were exaggerated. In her written submission, the tenant described her health issues as terminal and testified that she had applied for assisted living but was on a wait list over which she had no control.

The tenant indicated that she would like the tenancy to continue and that she intended to move out as soon as she obtained alternative accommodation.

Analysis

In order to support the notice to end tenancy, the landlord must prove at least one of the grounds alleged. As explained to the parties during the hearing, the onus or burden of proof is on the party making a claim to prove the claim. When one party provides evidence of the facts in one way and the other party denies the allegations, without other evidence to support the allegations, the party making the claim has not met the burden of proof, on a balance of probabilities, and the claim fails.

The landlord made allegations that the tenant has disturbed the other occupants and affected their quiet enjoyment of the premises and has engaged in illegal activities, but did not file any documentary evidence to support his allegations. The tenant denied the allegations. Therefore, I am unable to determine that the landlord has reason to end the tenancy. In addition being mean or argumentative even if proven, is not sufficient to prove that the tenant has significantly interfered with or unreasonably disturbed another occupant and also does not justify putting an end to this tenancy.

I therefore allow the tenant's application and set aside the landlord's notice to end tenancy, dated April 19, 2018. As a result, the tenancy shall continue in accordance with its original terms.

Since the tenant has proven her case, she is entitled to the recovery of the filing fee. The tenant may make a one-time deduction of \$100.00 from a future rent.

Conclusion

The notice to end tenancy is set aside and the tenancy will continue.

The tenant may make a one-time deduction of \$100.00 from a future rent

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 08, 2018

Residential Tenancy Branch