



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNC OPC RP

Introduction

Both parties attended the hearing and gave sworn testimony. The tenant made an application to cancel a One Month Notice to End Tenancy for cause. However both parties agreed there was no formal Notice to End Tenancy given to the tenant. The tenant stated they served the Application for Dispute Resolution on the landlord dated May 1, 2018 by leaving it at the door. Although this is not legal service according to section 89 of the Act, I find the documents sufficiently served for the purposes of this hearing pursuant to section 72(b) as the landlord received them. The tenant applies pursuant to the *Residential Tenancy Act* (the Act) for orders as follows:

- a) To cancel a notice to end tenancy for cause pursuant to section 47;
- b) To order the landlord to comply with the Act and do necessary repairs; and
- c) To dispute an illegal increase of rent

Issue(s) to be Decided:

Has the landlord proved on the balance of probabilities that there is sufficient cause to end the tenancy or is the tenant entitled to relief? Has the tenant proved on the balance of probabilities that the landlord has failed to protect their peaceful enjoyment and to maintain the property?

Background and Evidence

Both parties attended the hearing and were given opportunity to be heard, to provide evidence and to make submissions. The undisputed evidence is that the tenancy commenced in February 1, 2018 with no written agreement. Rent is \$1000 a month and a security deposit of \$500 was paid. The landlord testified they want the suite for their own use as they have family that need to use it. However, they only told the tenant by telephone and they say she agreed to move.

The tenant asks that the tenancy continue and that she not be subject to an illegal rent increase. She said the landlord told her she had to pay an extra \$100 because she has a nephew coming to live there for a few months. The tenant also said she paid \$50 for internet and the landlord withdrew it. She now has her own service. The landlord said the extra \$100 is because the tenant moved two extra persons into the unit and the \$50 covered cable TV which the tenant still has.

The tenant also asked for repair to a stove; it has only two working burners. The landlord did not dispute this.

On the basis of the documentary and solemnly sworn evidence presented for the hearing, a decision has been reached.

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Analysis:

I find the landlord did not serve a written Notice to End Tenancy in the approved form. As explained in the hearing, a tenancy can be ended pursuant to section 46 for unpaid rent or section 47 for cause or section 49 for landlord's use of the property. However each of these Notices must be in the approved form according to section 52 of the Act. The forms are available online on the Residential Tenancy Branch website. I find the verbal notice given by the landlord is of no force or effect. The tenancy is continued.

In respect to the extra \$100 charged, I find this is for the extra occupants which the tenant is moving into the unit. I find they are not short term guests so the landlord is entitled to charge for the extra occupants according to section 40 of the Act and this is not defined as a 'rent increase'. I find the evidence is that the \$50 charge included cable which the tenant has so I find they are not entitled to a refund of that.

According to section 43 of the Act, the landlord is entitled to increase the rent for at least 12 months since the rent was first established, in this case, February 1, 2018. The rent increase must comply with the regulations and be served three months in advance of the proposed increase. The legislated amount for this year was 4% but it may be different next year as it is based on certain factors which differ each year. The approved amount may be found on the Residential Tenancy Branch website each year.

Regarding the lack of burners on the stove, I find the tenant is entitled to have the stove repaired and I will so order.

I urge these parties to enter into a written Residential Tenancy Agreement to define their rights and obligations. Section 13 of the Act requires a landlord to prepare this and

after signing, give the tenant a copy. The form again can be found on the Residential Tenancy Branch website.

Conclusion:

The tenancy is continued since there was no formal Notice to End Tenancy served on them. The filing fee was waived.

I HEREBY ORDER THE LANDLORD to repair the stove of the tenant as soon as possible so all the burners are working. Should the stove not be repaired by July 31, 2018, I HEREBY ORDER that the tenant may deduct \$20 a month off her rent until it is repaired.

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 28, 2018

Residential Tenancy Branch