



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding K.Y. HOLDINGS LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

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

- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 47.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another. Both parties confirmed that they had exchanged their documentary evidence.

Issues(s) to be Decided

Is the tenant entitled to have the One Month Notice to End Tenancy for Cause set aside? If not, is the landlord entitled to an order of possession?

Background and Evidence

The landlord gave the following testimony. The tenancy started on April 1, 2012 and is ongoing. The tenant pays a monthly rent of \$913.00. The landlord testified that during a two week span of March 15-30, 2018 the tenant was removing lightbulbs from the common area near the storage lockers. The landlord used hidden camera to capture the tenant doing this on several occasions. The landlord testified that a tenant that lives in the building tripped and bruised his elbow due to the poor lighting. The landlord is concerned that the safety of the tenants, especially the elderly, is at risk because of the tenants' actions. The landlord testified that on April 12, 2018 they issued a One Month's Notice to End Tenancy for Cause on the following basis:

Landlord's notice: cause

47 (1) (d) *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;

(e) 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 landlord requests an order of possession.

The tenant gave the following testimony. The tenant testified that he was frustrated that someone kept leaving the lights on in the common area when they were not necessary. The tenant testified that it's partly to do with his upbringing in being mindful of waste and the environment. The tenant testified that when the landlord showed him the video he felt ridiculous for behaving in this manner. The tenant testified that he knows that he is not to touch anything outside of his unit and wishes to remain on the property.

Analysis

When a landlord issues a notice under section 47 of the Act, they bear the responsibility in providing sufficient evidence to support the issuance of this notice. The landlord acknowledged that the tenant stopped his behaviour as soon as it was brought to his attention and that there haven't been any issues since. The tenant gave emphatic and compelling testimony that he is fully aware that he is not to touch anything in the common areas and that he will abide by the signed tenancy agreement between the parties. The landlord referred to some other issues with the tenant but those were

incidents that occurred at least three years ago and have been resolved; I find that those are not relevant to today's proceedings. Based on the above, the landlord has not provided sufficient evidence to support the issuance of the notice; accordingly, I hereby set aside the notice, it is of no force or effect.

Conclusion

The One Month Notice to End Tenancy for Cause dated April 12, 2018 with an effective date of May 31, 2018 is cancelled, it is of no effect or force. The tenancy continues.

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 14, 2018

Residential Tenancy Branch