



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding LMLTD HOLDINGS CORP.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with the tenant's application pursuant to section 47 of the *Residential Tenancy Act* (the *Act*) for cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice).

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.

As the tenant confirmed that they received the 1 Month Notice placed by the landlord in their mail slot on June 20, 2018, I find that the tenant was duly served with this Notice in accordance with section 88 of the *Act*. As the landlord confirmed that the tenant handed them a copy of the tenant's dispute resolution hearing package on July 15, 2018, I find that the landlord was duly served with this package in accordance with section 89 of the *Act*. The landlord provided sworn testimony including the Canada Post Tracking Number for written evidence the landlord sent the tenant by registered mail on July 26, 2018. The tenant said that she had not received this written evidence as Canada Post is no longer delivering mail to this rental building. The tenant said that she has not been to her Canada Post mailbox offsite to retrieve mail recently. As I am satisfied that the tenant was deemed served with the landlord's written evidence on July 31, 2018, the fifth day after its registered mailing, I find that this material was deemed served in accordance with sections 88 and 90 of the *Act*.

Since the tenant had not received this written evidence, as a courtesy I asked the landlord to read the contents of the one document that the landlord had submitted that had not been entered into written evidence by the tenant. The landlord complied with this request.

Issues(s) to be Decided

Should the landlord's 1 Month Notice be cancelled? If not, is the landlord entitled to an Order of Possession?

Background and Evidence

The parties agreed that this tenancy began as a three-month fixed term tenancy on July 1, 2016. After the expiration of the initial term, this tenancy continued as a month-to-month tenancy. Current monthly rent is set at \$850.00, payable in advance on the first of each month. The parties agreed that the landlord has accepted rent for July and August 2018, but that the landlord's acceptance of this rent did not reinstate this tenancy.

The tenant entered into written evidence a copy of the 1 Month Notice, requiring the tenant to end this tenancy by July 31, 2018. In that Notice, the landlord cited the following reasons for the issuance of the Notice:

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

- *significantly interfered with or unreasonably disturbed another occupant or the landlord;*
- *seriously jeopardized the health or safety or lawful right of another occupant or the landlord;*
- *put the landlord's property at significant risk.*

Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

Analysis

Pursuant to section 63 of the *Act*, the Arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order. During the hearing, the parties engaged in a conversation, turned their minds to compromise and achieved a resolution of their dispute.

Both parties agreed to the following final and binding resolution of their dispute:

1. The landlord agreed to withdraw the existing 1 Month Notice.
2. Both parties agreed that the landlord will issue a 24-72 hour written notice to conduct a joint inspection of the balcony of this rental unit to determine which items may be left on the balcony and which items need to be removed to comply with the building rules regarding what can be kept on balconies in this rental building. Both parties agreed to participate in this joint inspection.
3. The tenant agreed to remove items that the joint inspection reveals are not permitted on the balcony by September 30, 2018.
4. The tenant agreed to have no further contact with the tenant in Unit 205 of this building during the remainder of her tenancy.
5. The tenant agreed to respect the quiet enjoyment that other occupants of the rental building expect to receive during their tenancies.
6. Both parties agreed that this settlement agreement constituted a final and binding resolution of the tenant's application and the issues in dispute arising out of this tenancy

at this time and that they did so of their own free will and without any element of force or coercion.

Conclusion

To give effect to the settlement terms as outlined above:

- I order that the 1 Month Notice is hereby withdrawn by the landlord and of no continuing force or effect. This tenancy continues until ended in accordance with the *Act*.
- I order the parties to participate in a joint inspection of the balcony within 24 to 72 hours of the landlord providing a written request to do so to the tenant.
- I order the tenant to remove items identified as those not allowed on the balcony during the parties' joint inspection of the balcony by September 30, 2018.
- I order the tenant to avoid contact with the tenant in Unit 205 to the extent possible.
- I order the tenant to respect the rights of other tenants in this rental building to quiet enjoyment of the premises.

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: August 09, 2018

Residential Tenancy Branch