



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, OLC, LRE, FFT

Introduction

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

- cancellation of the landlord's One Month Notice to End Tenancy for Cause (the One Month Notice) pursuant to section 47;
- an order requiring the landlord to comply with the Act, regulation or tenancy agreement pursuant to section 62;
- an order to suspend or set conditions on the landlord's right to enter the rental unit pursuant to section 70; and
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

The landlord's agent, the landlord's building manager and Tenant R.H. attended the hearing. All parties 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. Tenant R.H. (the tenant) indicated that they would be representing the interests of both tenants in this matter.

While I have turned my mind to all the documentary evidence, including the testimony of the parties, only the relevant details of the respective submissions and/or arguments are reproduced here.

As the landlord attended the hearing and did not dispute service, I find that they were duly served with the Application for Dispute Resolution (the Application) pursuant to section 89 of the Act.

Issue(s) to be Decided

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

Are the tenants entitled to an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement?

Are the tenants entitled an order to suspend or set conditions on the landlord's right to enter the rental unit?

Are the tenants entitled to recover the filing fee for this application from the landlord?

Background and Evidence

Written evidence was provided that this tenancy began on August 01, 2014, with a current monthly rent of \$820.00, due on the first day of each month with a security deposit in the amount of \$410.00.

At the outset of the hearing the tenant stated that there was no One Month Notice served to them. The tenant stated that she was disputing her own notice to vacate that she had signed after being presented with it by the landlord.

The tenant stated that she was told by the landlord's agent that they were going to issue a One Month Notice to them and gave the tenant the option to sign a voluntary notice to vacate the rental unit. The tenant stated that she does not want the landlord to show the rental unit although she admitted that the landlord has given proper notice for a showing.

The landlord submitted that they are seeking to end the tenancy but confirmed that they did not make their own application for dispute resolution and were seeking an Order of Possession based on the tenant's notice to vacate the rental unit. The landlord stated that they are a large property management company and always give proper notice before entering a rental unit or showing it to prospective buyers.

Analysis

Section 47 of the *Act* allows a landlord to issue a notice to end tenancy for cause to a tenant if the landlord has grounds to do so. Section 47(4) of the *Act* provides that upon receipt of a Notice to End Tenancy for Cause the tenant may, within ten days, dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch.

As the tenant and the landlord confirmed that there was no One Month Notice served to the tenant, I dismiss the tenant's Application to dispute the One Month Notice, without leave to reapply.

Section 55(1) of the *Residential Tenancy Act* provides that if a tenant makes an application to set aside a landlord's notice to end a tenancy and the application is dismissed, the Arbitrator must grant the landlord an order of possession if the notice complies with section 52 of the *Act*.

As there was no One Month Notice served to the tenant that complies with section 52 of the *Act*, I find that I cannot issue an Order of Possession.

Regarding the tenant's requests to suspend or set conditions on the landlord's right to entry and for the landlord to comply with the *Act*, I find that the tenant did not give any testimony that the landlord was acting in a manner that was not in accordance with the *Act* as they confirmed that the landlord has given proper written notice to access the rental unit.

For the above reason, I dismiss the tenant's request to have the landlord comply with the *Act* and to suspend or set conditions on their right to entry, without leave to reapply.

As the tenant was not successful in their Application, I dismiss their request to recover the filing fee, without leave to reapply.

Conclusion

The tenants' Application is dismissed, without leave to reapply

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: October 19, 2018

Residential Tenancy Branch