



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNC, ERP, OLC

Introduction:

The Application for Dispute Resolution filed by the Tenant seeks the following:

- a. An order to cancel the one month Notice to End Tenancy dated September 4, 2018
- b. An order for emergency repairs
- c. An order that the landlord comply with the Residential Tenancy Act, Regulations and/or tenancy agreement.

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

I find that the one month Notice to End Tenancy was personally served on the Tenant on September 4, 2018. Further I find that the Application for Dispute Resolution/Notice of Hearing was served on the landlord by mailing, by Priority Post to where the landlord carries on business. With respect to each of the applicant's claims I find as follows:

Issues to be Decided:

The issues to be decided are as follows:

- a. Whether the tenant is entitled to an order cancelling the Notice to End Tenancy dated September 4, 2018?
- b. Whether the tenant is entitled to an order for emergency repairs?
- c. Whether the tenant is entitled to an order that the landlord comply with the Residential Tenancy Act, Regulations and/or tenancy agreement?

Background and Evidence:

The tenant has lived in the rental unit for 12 years. The present rent is \$660 per month payable in advance on the first day of each month. The tenant paid a security deposit of \$300 at the start of the tenancy.

The landlord seeks to end the tenancy based on the following evidence:

- The tenant has been involved in confrontations with other Tenants.
- The landlord did not present any documentary evidence with the exception of the Notice to End Tenancy and the Proof of Service. The landlord relies on a letter dated September 19, 2018 where the tenant acknowledges she had too much wine with her neighbours and fell when she was going downstairs. She does not remember what happened but has been told that she was belligerent with the ambulance attendants. The police were called. She had four staples put in her head. The letter indicates that she apologized to her neighbours the next day and to the landlord. The second page of the letter is signed by the neighbours in the area that states that while they were afraid of the tenant that night they are not afraid of the tenant generally.
- The landlord testified the tenant is having problems dealing with a stalker and it is time for her to move on.
- The landlord acknowledged there is a problem with the front door and they are continually repairing it.

The tenant testified as follows:

- She acknowledged there was an incident on September 1, 2018. She testified it was caused by when she had some of wine after taking prescription medicine (which she forgot that she had taken). She does not remember much of the incident.
- She denies others Tenants in the building are afraid of her.
- She denies she is getting into disputes with other Tenants.
- She has apologized to the neighbours and landlord for the September 1, 2018 incident.
- She was not arrested as a result of that incident.
- She is presently before the court dealing with the actions of the stalker.
- The front door to the building is in disrepair and is a security risk. She fears for her safety.

Grounds for Termination:

The Notice to End Tenancy identifies the following grounds:

- Tenant or a person permitted on the property by the tenant has:
 - significantly interfered with or unreasonably disturbed another occupant or the landlord
 -
 - put the landlord's property at significant risk
- Tenant has engaged in illegal activity that has, or is likely to:
 -
 - adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord

Analysis:

The landlord has the burden of proof to establish sufficient cause to end the tenancy on a balance of probabilities. After carefully considering all of the evidence I determined the landlord failed to present sufficient proof to end the tenancy for the following reasons:

- The landlord failed to provide evidence from other occupants in the rental unit. I determined there is insufficient evidence to establish that the tenant has unreasonably disturbed another occupant or the landlord. Further, the landlord failed to prove the Tenant has put the landlord's property at significant risk.
- I determined the landlord failed to prove the tenant has engaged in illegal activity. Further the landlord failed to prove the conduct of the tenant has adversely affected the quiet enjoyment, security, safety or physical well-being of another occupant or the tenant.

Determination and Orders:

After carefully considering all of the evidence I determined that the landlord has failed to establish sufficient cause to end the tenancy. As a result I ordered that the one month Notice to End Tenancy dated September 4, 2018 be cancelled. The tenancy shall continue with the rights and obligations of the parties remaining unchanged.

Application for Emergency Repairs:

I accept the evidence of the parties that there is a problem with the front door. As a result I ordered that the landlord repair the front door to the rental property so that it is secure by November 6, 2018.

This decision is final and binding on the parties.

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 29, 2018

Residential Tenancy Branch