



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 353178 BC LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

On November 8, 2018, the Tenant submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (the “Act”) requesting to cancel a One-Month Notice to End Tenancy for Cause. The matter was set for a participatory hearing via conference call.

The Landlord and Tenant attended the hearing and provided affirmed testimony. They were provided the opportunity to present their relevant oral, written and documentary evidence and to make submissions at the hearing. The parties testified that they exchanged the documentary evidence that I have before me.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue to be Decided

Should the One-Month Notice to End Tenancy for Cause, dated November 9, 2018 (the “Notice”), be cancelled, in accordance with Section 47 of the Act?

If the Notice is not cancelled, should the Landlord receive an Order of Possession, in accordance with Section 55 of the Act?

Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

The parties agreed that the month-to-month tenancy began on February 1, 2014, that the monthly rent is \$857.00 and, that the Landlord collected a security deposit in the amount of \$380.00. The parties did not agree on whether a pet damage deposit has been paid.

The Landlord stated that the Tenant had changed the locks on her rental unit and had not provided the Landlord a key, regardless of written warnings. The Tenant's failure to provide a key, also interfered with the Landlord's initiative and treatment plan to deal with a building-wide bed bug problem from October 5-30, 2018.

The Landlord testified that the Tenant had been failing to keep up on her utility bills and is continually making late payments.

The Landlord stated that the Notice was issued to the Tenant by attaching it to her door on October 31, 2018. The Notice stated that the Tenant must move out of the rental unit by December 1, 2018. The Notice contained the reasons for the ending of the tenancy.

The Tenant testified that she did change her locks due to her fears regarding the inappropriate and concerning actions of the previous building manager. The Tenant stated that she is willing to provide the new building manager the key to her rental unit.

The Tenant stated that she was willing to cooperate with the treatment of bed bugs; however, the plan to do so overlapped with her recovery of major surgery that had recently occurred on September 27-30, 2018. The Tenant, with the support of her surgeon, has been limiting her movement and resting. She posted a notice to her door to advise the Landlord that she may not be able to participate with the Landlord's initiative to treat her rental unit for bed bugs in early October as the Tenant was immobile.

The Tenant testified that the utilities are in her name and although sometimes late, that she always pays her utility bills. She stated that her rent and utilities are currently paid in full.

Analysis

The Landlord provided the Tenant a Notice to End Tenancy that was on an old form; however, did provide some detail as to the reasons for the end of tenancy in an attachment.

The Landlord provided compelling evidence with regard to the Tenant failing to provide a key to the rental unit and how that interfered with the progress the management was making to control a bed bug issue in the residential property.

I accept the Tenant's testimony that she originally changed her locks due to her perception of the (previous) building manager's inappropriate actions towards the Tenant and that the Tenant has not yet provided the key to the new manager.

The Tenant provided undisputed evidence that she underwent major surgery that affected her mobility at the end of September 2018. I accept that the Tenant would have been on pain killers and attempting to recover during the time of the bed bug treatment.

As a result of the testimony and evidence provided, I find that the Tenant did fail to provide the Landlord's a key to the rental unit and that by doing so, complicated the Landlord's treatment of the residential property for bed bugs. However, given the Tenant's delicate physical condition after surgery, I am not convinced that the Tenant was prepared to have her rental unit treated for bed bugs or, furthermore, if it would have been appropriate for the Landlord to enter, even if the Landlord had keys to the rental unit.

The Landlord pursued an important issue with the Tenant; the requirement for the Tenant to not change a lock (or to at least provide a key to the Landlord) to the rental unit, in accordance with Section 31 of the Act. However, I am not prepared to end the tenancy over this breach.

I find that the Landlord failed to provide sufficient evidence that the Tenant has failed to pay her utility bills and how that would affect the Landlord in a negative manner, pursuant to Section 47 of the Act.

In full consideration of all the testimony and evidence, I find that the Notice should be cancelled, and that the tenancy will continue until it is ended in accordance with the Act.

I order the Tenant to provide the Landlord a key to the rental unit within 3 days of receiving this Decision. If the Tenant fails to provide the Landlord a key to the rental

unit, the Landlord may issue the Tenant a One-Month Notice to End Tenancy for failing to comply with a material term. I consider the Landlord's previous actions and this hearing as more than ample warning for the Tenant to respond to this issue, pursuant to Section 31 of the Act.

Conclusion

I order that the Notice is cancelled, and the tenancy shall continue until ended in accordance with the Act.

The Tenant will provide the Landlord a key to the rental unit within 3 days of receiving this Decision.

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: December 17, 2018

Residential Tenancy Branch