



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding DEVON PROPERTIES LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes

CNC RP FF

Introduction

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

- cancellation of a One Month Notice to End Tenancy For Cause (the One Month Notice), pursuant to section 47;
- an order to the landlord to make repairs to the rental unit pursuant to section 32;
- authorization to recover the filing fee for this application pursuant to section 72.

Both parties attended the teleconference hearing and were given a full opportunity to be heard, to present evidence and to make submissions. The corporate landlord was primarily represented by its agent CA (the "landlord").

As both parties were present service of documents was confirmed. The tenant confirmed receipt of the 1 Month Notice dated September 25, 2018 and evidence. The landlord confirmed receipt of the tenant's application for dispute resolution dated October 5, 2018, the review decision of November 20, 2018, notice of reconvened hearing and evidence. Based on the testimonies I find that each party was served with the respective materials in accordance with sections 88 and 89 of the *Act*.

Issue(s) to be Decided

Should the November 8, 2018 decision and orders be affirmed or set aside?

Background and Evidence

This tenancy began in 2005. There have been several other applications made by the tenant under the file numbers on the first page of this decision. Those applications dealt with the tenant's request for repairs to the rental unit. The previous applications were dismissed.

The landlord said that despite the decisions rendered for the earlier applications the tenant has continued to harass the landlord, their third party service providers, other residents, and various agencies demanding work be done. The landlord testified that in addition to confronting the landlord and their employees directly, the tenant has arranged for other agencies, doctors and societies to contact the landlord on their behalf. The landlord submitted into evidence numerous pages of correspondence showing complaints from other residents of the rental building and reports of harassment and interaction with the tenant.

The landlord issued a 1 Month Notice dated September 25, 2018 indicating the reasons for this tenancy to end as:

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.*

The landlord said that in addition to the continuous and unrelenting harassment of the tenant against the landlord and other occupants they witnessed one incident where the tenant jammed the elevator in the rental building by wedging an object into the elevator shaft. The landlord submitted a video showing the elevator malfunctioning after the tenant has entered.

The tenant disputes the landlord's evidence generally. The tenant said that they reported the elevator malfunction but are not responsible for causing the issue. The tenant gave lengthy testimony about the various deficiencies they feel are present in the rental suite and that they have continued to request maintenance.

Analysis

Section 46 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. If the tenant files an application to dispute the notice, the landlord bears the burden to prove, on a balance of probabilities, the grounds for the 1 Month Notice.

The landlord must show on a balance of probabilities, which is to say it is more likely than not, that the tenancy should be ended for the reasons identified in the 1 Month Notice. In the matter at hand the landlord must demonstrate that the tenant has significantly interfered with or unreasonably disturbed the landlord or another occupant or that they have put the property at significant risk.

I find that the landlord has provided sufficient evidence to show that the tenant has unreasonably disturbed and significantly interfered with the landlord and other occupants. I find that despite a final and binding decision being rendered at earlier hearings the tenant continued to engage in a campaign demanding work be performed by the landlord. I find that the frequency and volume of the requests to constitute an unreasonable disturbance. The landlord submitted documentary evidence showing the repeated interactions with the tenant and multiple complaints from other occupants of the rental building.

During the hearing the tenant again testified about various deficiencies they see in the rental suite. While the tenant may feel that the landlord has an obligation to maintain the rental suite in a habitable condition, they have made an earlier application which was conclusively adjudicated. When the tenant's earlier claims were dismissed it was not an invitation to continue to make demands and engage the landlord. I find that the tenant's present application requesting repairs to be a combination of issues conclusively decided and res judicata and complaints that are not supported in the evidence submitted.

I find that the landlord has shown on a balance that there is cause to end this tenancy. The landlord's 1 Month Notice meets the form and content requirements of section 52 of the *Act* as it is in the approved form and clearly identifies the parties, the address of the rental unit and the effective date of the notice. The notice also provides the reason for ending the tenancy.

Conclusion

The decision and order of November 8, 2018 are confirmed.

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: January 8, 2019

Residential Tenancy Branch