



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC ERP LRE OLC

Introduction

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

- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the 1 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 the landlord to make emergency repairs to the rental unit pursuant to section 33; and
- an order to suspend or set conditions on the landlord's right to enter the rental unit pursuant to section 70;

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 both parties were present service of documents was confirmed. The tenant confirmed receipt of the 1 Month Notice dated December 27, 2018 and landlord's evidence. The landlord confirmed receipt of the tenant's application of January 4, 2019 and evidentiary materials. Based on the testimonies I find that both parties were served with the respective materials in accordance with sections 88, 89 and 90 of the *Act*.

Issue(s) to be Decided

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

Should the landlord be ordered to make repairs to the rental unit? Should the landlord be ordered to comply with the Act, regulations or tenancy agreement? Should conditions be set on the landlord's right to enter the rental unit?

Background and Evidence

The parties agreed on the following facts. This periodic tenancy began in April 2017. The current monthly rent is \$700.00 payable by the first of each month. The rental unit is a cabin in a small community.

The landlord testified that the relationship with the tenant has deteriorated to the point where they feel it is no longer functional. The landlord testified that the tenant has made complaints about trespassers smoking by the rental property and requested unreasonable security measures be taken. The landlord said that the property is listed for sale but the tenant has refused to allow the landlord access to the property for showings. The landlord said that the tenant has made baseless accusations about the landlord in the community and filing reports with the RCMP. The landlord submitted into documentary evidence written submissions and copies of some correspondence with the tenant.

The tenant testified that they feel the landlord has acted in an overbearing manner and that some of the reasons for accessing the rental unit, such as cleaning the shower and freezer, are unnecessary and unreasonable.

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 present case the landlord must show that the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord.

I find that on a balance of probabilities the landlord has not established the evidentiary basis for this tenancy to end. While I accept the evidence of the parties that there has been conflict during this tenancy, I find that the description of the behaviour does not show that there has been a significant interference or unreasonable disturbance. The landlord's evidence primarily consists of written submissions and some correspondence between the parties. While the content and tone of the correspondence show that the relationship between the parties is strained, I do not find it to be sufficient to conclude that the behaviour of the tenant has been so significant or unreasonable as to give rise to an end of the tenancy.

I find the landlord's complaints about the tenant causing their standing in the community to decrease are not supported in the evidence. The landlord submits that the tenant has suggested that the landlord is stalking her and that neighbors may take her side in any potential confrontation. I find that these suggestions are not supported in the evidence and a conclusion that can only be reached through a considerable hypothetical leap. I find that there is little evidence that the tenant has publicized their unhappiness with the landlord beyond simply speaking with others. In any event I find that speaking ill of a landlord is not in itself a reason for a tenancy to end.

I do not find that the landlord's evidence that they have been restricted from showing the rental property to potential sellers to be sufficient to give rise to an end of the tenancy. Section 29 of the *Act* sets out the circumstances and manner by which a landlord may enter a rental unit. I find the landlord's submission that the tenant makes it difficult to comply with the requirements of the *Act* to be unreasonable. Furthermore, I find that entering a property for the purposes of cleaning freezers or showers that are part of the tenancy to be unreasonable. A tenant is entitled to reasonable privacy and I find that a landlord cleaning appliances that are part of the tenancy to be unreasonable.

I find that the landlord has not met their evidentiary burden on a balance of probabilities to show that the tenancy should end for the reasons set out on the 1 Month Notice. Consequently, I allow the tenant's application to cancel the 1 Month Notice. The 1 Month Notice of December 27, 2018 is cancelled and of no further force or effect. This tenancy continues until ended in accordance with the *Act*.

While the tenant gave general complaints about the landlord's behaviour and attitude, I find that there is insufficient evidence in support of the remaining portions of the tenant's application. Accordingly, I dismiss the balance of the tenant's application.

Conclusion

The 1 Month Notice is cancelled and of no force or effect. This tenancy continues until ended in accordance with the *Act*.

The balance of the tenant's application is dismissed with 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: February 14, 2019

Residential Tenancy Branch