



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, FFT, OLC

Introduction

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

- cancellation of the One Month Notice to End Tenancy for Cause (the "One Month Notice"), pursuant to section 47;
- an Order directing the landlord to comply with the *Act*, regulation or tenancy agreement, pursuant to section 62; ; and
- authorization to recover the filing fee for this application from the landlord, pursuant to section 72.

Both parties attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses. The landlord acknowledged that they had received the tenants' documentary evidence for this hearing. The landlord did not submit any documentation for this hearing.

Issues to Decide

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

Should the tenant be given an order to compel the landlord to comply with the *Act*, regulation or tenancy agreement?

Is the tenant entitled to the recovery of the filing fee for this application from the landlord?

Background and Evidence

LM gave the following testimony. LM testified that the tenancy began about 8 years ago and that the monthly rent is currently \$530.00. LM testified that the tenant and her boyfriend are extremely disruptive. LM testified that five of the other six tenants have threatened to move out of the home as a result of the significant disruption this tenant has caused. LM testified that the tenants' boyfriend has punched a hole in the wall and broke a stained glass door. LM testified that the police have attended on numerous occasions to address noise complaints. LM testified that she and the tenants are fearful of the tenant and her boyfriend. LM testified that a One Month Notice to End Tenancy for Cause was issued on January 4, 2019 for the following reasons:

47 (d) the tenant or a person permitted on the residential property by the tenant has

- (i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property,*
- (ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant, or*
- (iii) put the landlord's property at significant risk;*

(e) the tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that

- (i) has caused or is likely to cause damage to the landlord's property,*
- (ii) has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property, or*
- (iii) has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;*

YP testified that he is a contractor doing work in the home and has observed that the tenant is very loud during his time of doing work in August 2018. YP testified that he fixed the holes in the wall and the following day the wall was damaged again in the same spot. YP testified that he didn't see who caused the damage but thinks it's the tenants' boyfriend.

The tenant gave the following testimony. The tenant testified that the landlord is making all of these issues up. The tenant testified that she gets along well with other tenants

and that none of them have complained to her. The tenant testified that the landlord wants to end her tenancy so that she can rent the room out for more money.

Analysis

When a landlord issues a notice under Section 47 of the Act they bear the responsibility in providing sufficient evidence to support the issuance of that notice. The landlord had one witness appear on their behalf however the testimony from the witness was in relation to issues back in August 2018 and would not have warranted an end to the tenancy. I find that the witness' evidence was limited in its very limited in its weight as it was dated and at times very unclear and illogical as presented. The tenant made the same submission numerous times during the hearing; "what proof does she have?" It is clear to me that there are some issues between the tenant and the landlord, however; at this time the landlord has not provided sufficient evidence to justify ending the tenancy. Based on the insufficient evidence before me I hereby set aside the One Month Notice to End Tenancy for Cause, it is of no effect or force.

In regards to the tenant seeking an order to have the landlord comply with the Act, regulation or tenancy agreement, the tenant was silent on that point despite being given ample and numerous opportunities to fully present her claim and explain her application. Based on the insufficient evidence before me I dismiss that portion of the tenants' application.

As the tenant was only partially successful in this application I decline to award the recovery of the filing fee and the tenant must bear that cost.

Conclusion

The One Month Notice to End Tenancy for Cause dated January 4, 2019 is cancelled, it is of no effect or force. The tenancy continues.

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 21, 2019

Residential Tenancy Branch