



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, RR, OLC, FFT

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;
- an Order to allow the tenant a rent reduction for services or facilities required by the tenancy agreement or law but not provided, pursuant to section 65; 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 parties confirmed that they had exchanged their documentary evidence.

Preliminary Issue- Severance

Residential Tenancy Branch (RTB) Rule of Procedure 2.3 states that claims made in an Application for Dispute Resolution must be related to each other. Arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.

It is my determination that the priority claim regarding the One Month and the continuation of this tenancy are not sufficiently related to any of the tenant's other claims to warrant that they be heard together. The parties were given a priority hearing date in order to address the question of the validity of the Notice to End Tenancy.

The tenant's other claims are unrelated in that the basis for them rests largely on facts not germane to the question of whether there are facts which establish the grounds for ending this tenancy as set out in the Notice to End Tenancy. I exercise my discretion to dismiss all of the tenant's claims with leave to reapply except cancellation of the notice to end tenancy and recovery of the filing fee for this application.

Issue(s) to be Decided

Is the tenant entitled to cancellation of the One Month Notice to End Tenancy for Cause, pursuant to section 47 of the *Act*?

Is the landlord entitled to recover the filing fee for this application from the tenant, pursuant to section 72 of the *Act*?

Background and Evidence

The landlord gave the following testimony. The landlord testified the tenancy began on March 1, 2016 with the current monthly rent of \$1012.70 due on the first of each month. The tenant occupies one side of a side by side duplex in a manufactured home park. The landlord testified that she issued a One Month Notice to End Tenancy for Cause on July 10, 2019 for the following reasons:

Tenant or a person permitted on the property by the tenant has:

- *significantly interfered with or unreasonably disturbed another occupant or the landlord;*
- *seriously jeopardized the health or safety or lawful right of 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;*

The landlord testified that on July 8, 2019 the tenant engaged in an argument with another tenant in the park and screamed obscenities and used foul language in the presence of children and elderly. The landlord testified that on the following day the tenant revved his motorcycle for two hours causing a significant disturbance. The landlord testified that the tenants and his guest rode the motorcycle through the park in a reckless and dangerous manner. The landlord requests that the tenancy end and that she be granted an order of possession.

The tenant gave the following testimony. The tenant testified that the person he had an argument was the landlords' former common law spouse. The tenant testified that the individual has approached him on numerous occasions and persists in arguing with him. The tenant testified that he advised the landlord of the events but nothing was done about it. The tenant testified that he was never informed if the matter was resolved nor was he ever warned about it. The tenant testified that the person that rode through the park was not his guest, but the purchaser of his motorcycle. The tenant testified that the purchaser took the motorcycle for a test ride against the instructions of the tenant. The tenant testified that the person did in fact buy

the bike that day and that the motorcycle has been gone since July 9, 2019. The tenant testified that the landlords allegations are without merit and that she just has a dislike towards him and motorcycles.

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. I accept the landlord's undisputed testimony and I find that the tenant was served with a notice to end tenancy for cause. Its clear to me from the testimony of the parties that there are issues between them, however; that alone is not sufficient cause to end a tenancy. Although the landlord alleges a recurring pattern of reckless behaviour, they were unable to provide sufficient evidence to support that allegation. Based on the evidence before me at this time I find that the landlord has not provided sufficient evidence on a balance of probabilities to support the issuance of the notice, accordingly; I hereby cancel the One Month Notice to End Tenancy for Cause dated July 10, 2019, it is of no effect or force. The tenancy continues.

The tenant is entitled to the recovery of the \$100.00 filing fee. The tenant is entitled to a one time rent reduction of \$100.00 from the rent due on October 1, 2019 in full satisfaction of that claim.

Conclusion

The One Month Notice to End Tenancy for Cause dated July 10, 2019 is cancelled, 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: September 19, 2019

Residential Tenancy Branch