



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes AAT CNC RP

Introduction

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

- an order to allow access to or from the rental unit or site for the tenant or the tenant's guests pursuant to section 30;
- cancellation of the landlord's One Month Notice to End Tenancy for Cause (the "One Month Notice") pursuant to section 47; and,
- an order to the landlord to make repairs to the rental unit pursuant to sections 32 and 62.

Both parties attended the hearing and had full opportunity to provide affirmed testimony, present evidence, cross examine the other party, and make submissions. The tenant acknowledged receipt of the landlord's Notice of Hearing and Application for Dispute Resolution. Neither party raised issues of service. I find the parties were served in accordance with the *Act*.

Issue(s) to be Decided

Is the tenant entitled to an order to allow access to or from the rental unit or site for the tenant or the tenant's guests pursuant to section 30?

Is the tenant entitled to an order for the cancellation of the landlord's One Month Notice pursuant to section 47?

Is the tenant entitled to an order requiring the landlord to make repairs to the rental unit pursuant to sections 32 and 62?

Background and Evidence

The tenant is seeking an order to require the landlord to let her son visit her in the rental unit. The tenant testified that her son frequently visits her and her grandchild at the rental unit.

The landlord testified the tenant's son had brought a camper onto the property without the landlord's permission and he connected to the landlord's electric services without permission. The landlord testified that the tenant's son later removed the camper but she believes that the tenant's son has retaliated against the landlord by cutting a hose and dumping debris on the property. The landlord admitted that she did not have evidence to prove that the damage was caused by the tenant's son. The landlord also testified that the tenant's son cursed at her.

The landlord claimed that the tenant's son was frequently visiting the tenant at the rental unit and she believed that he was residing there without the landlord's permission. The landlord testified that the police were summoned twice to have the tenant's son removed from the property. The landlord wants to bar the tenant's son from entering the property.

The landlord issued the One Month Notice on August 20, 2019. The tenant testified that the notice was posted on her door on the same day it was issued. The One Month Notice had a stated move-out date of September 30, 2019. The grounds stated for ending the tenancy were the following:

- The tenant has allowed an unreasonable number of occupants in the unit/site.
- The 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 or a person permitted on the property by the tenant has engaged in illegal activity that has, or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of the other occupant

The tenant has also made a claim for repairs relating to missing a missing kitchen window screen. The tenant had requested additional repairs on her application but both

parties agreed that the other repairs have been made prior to the hearing. The only request for repair still in dispute the request for the kitchen window screen.

The tenant testified that the kitchen has never had a screen during the tenancy. The landlord testified that the kitchen window had a screen when the tenant moved in.

Analysis

The tenant has made applications for: (i) the right to have her son visit her at the rental unit as a guest; (ii) an order to cancel the One Month Notice; (iii) an request for repairs. I will address each of these applications separately.

i. Guest access

Section 30(1) of the *Act* states that a landlord must not unreasonably restrict access to residential property by a person permitted on the residential property by that tenant. I find the landlord's prohibition of access to the tenant's son to be unreasonable.

Although the landlord has testified that the she has some concerns regarding the tenant, I find that the landlord has not provided sufficient evidence to establish that it would not be unreasonable to prevent the tenant's son from visiting the tenant and the tenant's family at the rental unit.

Accordingly, I grant the tenant's application for an order to allow her son access to the rental unit as the tenant's guest pursuant to section 30 of the *Act*.

ii. Notice to end tenancy

A tenant may dispute a One Month Notice pursuant to section 47 of the *Act*. Pursuant to *Rules* 6.6, the landlord has the onus of proof to establish, on the balance of probabilities, that notice to end tenancy is valid. This means that the landlord must prove, more likely than not, that the facts stated on the notice to end tenancy are correct.

I find that the landlord has not provided sufficient evidence to establish that the tenant had an unreasonable number of occupants, that the tenant's son significantly interfered with or disturbed the landlord or that the tenant's son engaged in criminal activity as alleged in the notice to end tenancy. The landlord complained that the tenant's son had parked a camper on the property but the landlord acknowledged that the camper has been removed. The landlord also had suspicions that the tenant's son damaged the

property but cutting a hose and dumping debris but the landlord acknowledged that she did not have proof of these allegations.

For these reasons, I find that the landlord has failed to provide sufficient evidence to prove on the balance of probabilities any of the grounds set forth in the notice to end tenancy. Accordingly, I grant the tenant's application to cancel the One Month Notice. The One Month Notice is cancelled and is of no force or effect and the tenancy continues until ended in accordance with the *Act*.

iii. Repairs

Section 32 of the *Act* states the landlord has the following duty to maintain the rental unit:

- 32 (1) A landlord must provide and maintain residential property in a state of decoration and repair that
- (a) complies with the health, safety and housing standards required by law, and
 - (b) having regard to the age, character and location of the rental unit, makes it suitable for occupation by a tenant.

However, I find that the tenant has not provided sufficient evidence to establish that window screens are required to "comply with the health, safety and housing standards required by law." In the absence of such evidence, I find that the tenant has not established a right to have window screens in the rental unit pursuant to section 32 of the *Act*. Accordingly, I dismiss the tenant's application for repairs.

Conclusion

I grant the tenant's application for an order to allow her son access to the rental unit as the tenant's guest pursuant to section 30 of the *Act*. I order that the tenant's son shall be permitted to access the rental unit in accordance with the tenant's permission pursuant to section 30 of the *Act*.

I grant the tenant's application to cancel the One Month Notice. The One Month Notice is cancelled and is of no force or effect and the tenancy continues until ended in accordance with the *Act*.

I dismiss the tenant's application for repairs.

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: October 28, 2019

Residential Tenancy Branch