



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNC, OLC, FF

Introduction

This hearing dealt with an application by the tenant for an order to set aside a notice to end tenancy for cause, for an order directing the landlord to comply with the *Act* and for the recovery of the filing fee.

Both parties attended this hearing and were given full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The parties represented themselves. The landlord was assisted by an interpreter.

As both parties were in attendance, I confirmed the service of documents. The parties confirmed receipt of each other's evidence. I find that the parties were served with evidence in accordance with sections 88 and 89 of the *Act*.

RTB Rules of Procedure 2.3 states that if in the course of a dispute resolution proceeding, the Arbitrator determines that it is appropriate to do so, the Arbitrator may dismiss unrelated disputes contained in a single application with or without leave to reapply. In this regard I find the tenant has applied for an order directing the landlord to comply with the *Act*.

As this section of the tenant's application is unrelated to the main section which is to cancel the one month notice to end tenancy for cause, I dismiss this section of the tenant's claim with leave to reapply. Accordingly this hearing only dealt with the tenant's application to set aside the notice to end tenancy for cause.

Issue to be Decided

Does the landlord have grounds to end this tenancy?

Background and Evidence

The tenancy began October 2018. The monthly rent is \$3,700.00 due on the first of each month.

On August 30, 2019, the landlord served the tenant with a notice to end tenancy for cause. The tenant disputed the notice in a timely manner. Neither party filed a copy of the notice into evidence. The tenant described the notice as being in the proper format. The notice to end tenancy alleges that the tenant has allowed an unreasonable number of occupants in the unit and that the tenant has jeopardized the health and safety of the landlord and other occupants of the rental unit.

The parties agreed that at the start of tenancy, the landlord allowed the tenant to find a roommate to share the cost of rent. The landlord agreed that she had recommended a co-worker who moved into the rental unit. When that tenancy ended the tenant found another roommate to share rent. The tenant stated that the home has 7 bedrooms and that 6 adults and 2 children occupy the home. The tenant believes that the number of people residing in the home is reasonable.

The landlord stated that the tenant keeps the house in a messy condition and has filed photographs to support his testimony. The landlord also stated that the suite in the basement of the home is illegal and therefore he has to remove the stove from the unit. The tenant objected to the landlord's plan and refused to allow him to do so.

Analysis

In order to support the notice to end tenancy, the landlord must prove at least one of the grounds alleged, namely that the tenant has allowed an unreasonable number of occupants in the unit and that the tenant has jeopardized the health and safety of the landlord and other occupants of the rental unit.

The landlord has alleged that the tenant has allowed an unreasonable number of occupants in the unit. The tenant testified that the unit has seven bedrooms and there are only six adults and two children living in the rental unit. The tenant also added that the landlord allowed her to find roommates and even recommended one who moved in and shared the accommodation for a period of time. Both parties acknowledged that the approval was verbal.

The tenant rented the unit with a fully contained basement suite and was given permission to rent it out to a roommate.

Therefore, I find that it is unreasonable for the landlord to remove the stove from the basement. The landlord is at liberty to legalize the suite.

The landlord filed photographs of the “messy” condition of the home. The photographs show lots of toys scattered in various rooms. The photographs indicate that the rental unit is maintained in an untidy condition, but I find that this does not pose any threat to the health and safety of the landlord or the occupants.

Based on the above, I find that the landlord has not proven the reasons for the notice to end tenancy and therefore I am not satisfied that the actions of the tenant justify bringing this tenancy to an end. Accordingly, I allow the tenant's application and set aside the landlord's notice to end tenancy dated August 30, 2019. As a result, the tenancy shall continue in accordance with its original terms.

Since the tenant is successful in her application, I award the tenant the filing fee.

Conclusion

The notice to end tenancy is set aside and the tenancy will continue.
The tenant may make a one-time deduction of \$100.00 from a future rent.

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: November 19, 2019

Residential Tenancy Branch