



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNC, FF

Introduction

This hearing dealt with an application by the tenant for an order to set aside a notice to end tenancy for cause and for the recovery of the filing fee. Both parties attended this hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The tenant attended along with their legal counsel. The landlords represented themselves.

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

I have considered all the written evidence and oral testimony provided by the parties but have not necessarily alluded to all the evidence and testimony in this decision.

Issue to be Decided

Does the landlord have grounds to end this tenancy?

Background and Evidence

The tenancy began on October 01, 2018 for a fixed term of two years. A copy of the tenancy agreement was filed into evidence but is not signed by the tenant. A move in inspection was not carried out by the landlord. On October 18, 2019, the landlord served the tenants with a one-month notice to end tenancy for cause. The tenants disputed the notice in a timely manner.

The landlord stated that the rental home is a heritage home and was built in 1904. Some of the fittings are original and need to be preserved.

The notice to end tenancy alleges that the tenant has put the landlord's property at significant risk, has caused extraordinary damage to the property, has not done the required repairs and has breached a term of the tenancy agreement.

The landlord stated that he inspected the rental unit on September 18, 2019 and found that the tenant had made changes to the rental unit without his permission and had caused some damage to the walls. In his written submission, the landlord described the changes and listed the alleged damage. The changes include the installation of a new ceiling light fixture, the removal of French doors and the removal of fire place doors.

The landlord stated that in order to change the ceiling light fixture, the tenant removed the original one and replaced some wires. The landlord stated that this work was not done by a certified electrician and that this workmanship posed a fire risk which would invalidate his property insurance. The tenant denied having had any wiring work done and stated that she simply replaced the existing light fixture with her own to suit her taste and has stored the original fixture in the storage area.

The tenant also stated that she did not remove the French doors and that this was done by the landlord, at her request. The tenant agreed to have removed the fireplace doors and stated that she has stored them and will reinstall them at the end of tenancy.

The landlord testified that the tenant has numerous personal belongings stored near the gas boiler in the basement and this also poses a fire hazard. During his inspection, the landlord noticed that there were several holes in the walls which were made to install hooks that held hanging plants, shelves, a movie screen etc.

The tenant responded by saying that she has removed her personal belongings that were stored near the gas boiler shortly after the landlord pointed it out to her during the inspection. The tenant agreed that she had made some holes in the walls and stated that most of the holes were there at the start of tenancy.

The landlord stated that sometime during the tenancy the tenant breached the tenancy agreement by taking on a roommate. The tenant agreed that she had but the roommate has since moved out.

The landlord wrote a warning letter to the tenant on October 01, 2019, listing his observations from the inspection carried out on September 18, 2019 and directing the tenant to rectify all the issues mentioned in the warning letter. A copy of the letter was filed into evidence.

The landlord also stated that he served the tenant with a second warning letter on October 18, 2019 along with the one month notice to end tenancy for cause.

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 put the landlord's property at significant risk, has caused extraordinary damage to the property, has not done the required repairs and has breached a term of the tenancy agreement.

Based on all the evidence before me, I find that the tenant did remove doors, installed a light fixture and put several holes in the walls. I also accept that the tenant had a roommate without the written permission of the landlord.

I further find that the landlord has not proven that the tenant replaced wiring or used the services of an uncertified electrician. The landlord agreed that there was no move in inspection done and therefore a report was not created. In the absence of documentation to confirm the condition of the rental unit, I am unable to determine how many holes in the walls were made by the tenant and how many existed prior to the start of this tenancy.

In any event, the tenant understands that she is responsible for any damage caused by her which must be repaired or fixed at her own cost by the end of tenancy. The tenant also testified that she has cleared her personal belongings from the basement that were in close proximity to the gas boiler. Both parties agreed that the tenant's room mate has moved out.

Based on the landlord's description of the damage, the tenant's rebuttal and the documents filed into evidence, I accept the landlord's evidence that the tenant made some changes without the landlord's permission and put holes in the walls. I further find that that the tenant has not caused extraordinary damage to the landlord's property and has not put the landlord's property at significant risk.

I find that the tenant rectified the situation regarding the room mate and the clutter in the basement upon being notified by the landlord.

Based on the above, I am not satisfied that the actions of the tenants justify bringing this tenancy to an end. Accordingly, I allow the tenants' application and set aside the landlord's notice to end tenancy dated October 18, 2019. As a result, the tenancy shall continue in accordance with its original terms.

The tenant would be wise to refrain from giving the landlord reason to issue warning letters to the tenant. I find it timely to put the tenant on notice that, if such behaviours were to occur again in the future and another notice to end tenancy issued, the record of these events would form part of the landlord's case should it again come before an Arbitrator, for consideration.

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

Conclusion

The notice to end tenancy is set aside and the tenancy will continue.

The tenants may make a onetime 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: December 12, 2019

Residential Tenancy Branch