



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

CNC FFT LAT LRE RP

Introduction

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

- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 47;
- authorization to recover his filing fee for this application from the landlord pursuant to section 72;
- an order to suspend or set conditions on the landlord's right to enter the rental unit and change the locks to the rental suite pursuant to section 70; and
- an order to the landlord to make repairs to the rental unit pursuant to section 33.

Both parties attended the hearing and were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The tenant was assisted by a worker.

As both parties were present service of documents was confirmed. The parties each confirmed receipt of the other's materials. Based on the testimonies I find that each party was served with the respective materials in accordance with sections 88 and 89 of the *Act*.

Issue(s) to be Decided

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

Is the tenant entitled to any of the relief sought?

Is the tenant entitled to recover the filing fee from the landlord?

Background and Evidence

While I have turned my mind to all the documentary evidence and the testimony of the parties, not all details of the respective submissions and arguments are reproduced here. The principal aspects of the claim and my findings around each are set out below.

This periodic tenancy began in November 2016. The rental unit is a suite in a multi-unit building containing 36 individual units. There has been a previous 1 Month Notice issued and a hearing under the file number on the first page of this decision.

The landlord submits that there was an incident on August 20, 2019 where the tenant got into an altercation with a third-party pest control specialist who was performing maintenance to the property. The landlord submitted into evidence a copy of a letter from the pest control worker describing the tenant's behaviour as "very rude, aggressive, and yelled at me and the resident managers". The landlord also submitted a letter from another resident of the building who witnessed the altercation and describes the behaviour as follows:

Throughout this incident, the Aggressor threatened to cause physical harm to not only me but the Subjects and the employees of the pest control company. He even went as far as forcibly taking a wooden plank that was intended for a repair from the hands of one of the Subjects and snapping it in half causing damage to property that is not his.

The landlord testified that the tenant has habitually acted in an aggressive manner, verbally abusing the resident property managers and that there have been previous hostile altercations.

The tenant disputes the characterization of the events of August 20, 2019. The tenant testified that they confronted the pest control specialist regarding entry into their rental suite but that the interaction did not include threats of physical harm. The tenant has no recollection of the incident with a wooden plank referenced in the witness letter.

The tenant gave some testimony about the landlord entering into their rental suite without providing the proper notice on occasions. The tenant included in their written submissions a request for repairs to the rental unit.

Analysis

Section 47 of the *Act* provides that upon receipt of a notice to end tenancy for cause, the tenant may, within ten days, dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. If the tenant files an application to dispute the notice, the landlord bears the burden to prove, on a balance of probabilities, the grounds for the 1 Month Notice.

The landlord must show on a balance of probabilities, which is to say it is more likely than not, that the tenancy should be ended for the reasons identified in the 1 Month Notice. In the matter at hand the landlord must demonstrate that the Tenant or a person permitted on the property by the tenant has seriously jeopardized the health or safety or lawful right of another occupant or the landlord.

Based on the totality of the evidence I find that the landlord has not established sufficient cause for this tenancy to end. I find that verbal altercations do not constitute a serious jeopardy that gives rise to an end of a tenancy. One witness statement from a resident states that there were physical threats uttered and property destroyed. No reference to threats or snapping a wooden plank are found in the written statement provided by the pest control worker who was the party to the verbal exchange. If threats were made or property destroyed it would be reasonable to expect that the party who was part of the exchange would mention it in their witness statement.

I find that the evidence shows that there was a verbal altercation with the tenant on August 20, 2019. I accept the evidence that voices were raised and the general tone of the conversation was hostile but I do not find that is sufficient to establish that there is a serious jeopardy to the health, safety or lawful right of others. While I find that there was a hostile verbal exchange I do not find that this interaction was so laced with danger or threatening behaviour that it gives rise to cause to end the tenancy.

Accordingly, I grant the tenant's application to cancel the 1 Month Notice. This tenancy continues until ended in accordance with the *Act*.

The tenant gave some testimony about the landlord entering into their rental suite without providing the proper notice on occasions. I find the tenant's testimony on this point to be vague, not sufficiently supported in the documentary evidence and disputed by the landlord. I find that the tenant has not shown on a balance of probabilities a

basis for an order to be made regarding the landlord's right to entry into the rental unit or authorization to change the locks. I dismiss this portion of the tenant's application.

The tenant submits that they have requested repairs be made to the rental unit. I find that there is insufficient evidence showing that repairs are necessary and consequently dismiss this portion of the tenant's application.

As the tenant's application was partially successful I find that the tenant is entitled to recover their filing fee from the landlord. As this tenancy is continuing I allow the tenant to satisfy their monetary award by making a one-time deduction of \$100.00 from their next scheduled rent payment.

Conclusion

The 1 Month Notice is cancelled and of no further force or effect. This tenancy continues until ended in accordance with the Act.

The tenant is authorized to make a one-time deduction of \$100.00 from their next scheduled rent payment.

The balance of the tenant's application is dismissed without leave to reapply.

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 19, 2019

Residential Tenancy Branch