



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Sterling Management Services Ltd
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes RR, DRI, CNL-4M, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant, to dispute a notice of rent increase, to have repairs made to the rental unit, to cancel a Four Month Notice to End Tenancy for Demolition, Renovation, or Conversion to Another Use (the "Notice") issued on January 30, 2020 and to recover the filing fee.

Both parties appeared, gave affirmed testimony, and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

The parties confirmed receipt of all evidence submissions and there were no disputes in relation to review of the evidence submissions.

Rule 2.3 of the Residential Tenancy Branch Rules of Procedure authorizes me to dismiss unrelated disputes contained in a single application. In these circumstances the tenant indicated several matters of dispute on the Application for Dispute Resolution, the most urgent of which is the application to set aside the Notice to End Tenancy. I find that not all the claims on this Application for Dispute Resolution are sufficiently related to be determined during these proceedings. I will, therefore, only consider the tenant's request to set aside the Notice to End Tenancy and the tenant's application to recover the filing fee at these proceedings. The balance of the tenant's application is dismissed, with leave to reapply.

In a case where a tenant has applied to cancel a Notice, Rule 7.18 of the Residential Tenancy Branch Rules of Procedure require the landlord to provide their evidence submission first, as the landlord has the burden of proving sufficient evidence to terminate the tenancy for the reasons given on the Notice.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to the relevant facts and issues in this decision.

Issue to be Decided

Should the Notice be cancelled?

Background and Evidence

The tenancy began on October 1, 2017. Rent in the amount of \$717.00, plus \$50.00 towards water was payable on the first of each month. The tenant paid a security deposit of \$350.00.

The parties agreed that the Notice was served on the tenant indicating that the tenant is required to vacate the rental unit on May 31, 2020.

The reason stated in the Notice was that:

- Perform renovations or repairs that are so extensive that the rental unit must be vacant.

The detailed of work listed in the Notice are as follows:

1. Cabinet refurbish
2. Window replacement
3. Doors replacement
4. Flooring replacement
5. Paint and drywall repairs

The advocate for the tenant states that the tenant disputes the Notice as the work detailed does not require vacant possession.

The landlord's agent testified that they were told to issue the Notice by the owner as they are planning to do extensive work to the premise, which will include cutting a hole in the ceiling and roof to install a fan in the upper bathroom and the upper bathroom will be totally removed and replaced, which is the biggest area of repair and could be unusable for 8 weeks.

The landlord's agent testified that not all details of work are listed in the Notice, and any permits required will be obtain by the trades that are performing the work. The agent stated that the landlord wants to do a full renovation of the property, gutting everything.

The tenant testified that they can accommodate the landlord for the repairs, by using someone else's bathroom if needed or staying with a friend from time to time.

The advocate for the tenant stated that the landlord is required to provide the full scope of the work in the Notice and any permits required, must be obtained prior to issuing the Notice. The advocate stated that these are cosmetic repairs and do not require vacant possession.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

I have considered all of the written and oral submissions submitted at this hearing, I find that the landlord has not provided sufficient evidence to show that the repairs or renovations are so extensive that they require vacant possession.

I have read the letter of January 30, 2020, from the owner AM, which details the work required. I do not find the work requires vacant possession as they are primarily cosmetic. The letter indicates that the owner is still getting quotes and works schedules. This leads me to believe the Notice was issued prematurely.

Further, even if I accept the testimony of the landlord's agents that the scope of the work is greater than stated in the Notice. Those details were required to be listed in the Notice. And any permits necessary regardless if they are obtained by the trade worker, are required to be provided prior to the issuance of the Notice.

Furthermore, while the main scope of the work appears to be in the bathrooms and it could take an extended period of time to complete; however, there are two bathrooms in the rental unit, one which needs extensive repair and the other some cosmetic upgrading. I find there is no reason that the landlord cannot renovate one bathroom at a time and leave one functioning bathroom while the repairs are being made to the other. While I accept this may not be cost effective or convenient to the landlord; however, I am not required to considered this.

In addition to the above, the tenant can accommodate the landlord while the repairs are made.

I find the evidence does not support the Notice was issued for the reasons stated. Therefore, I grant the tenant's application to cancel the Notice. As the tenant was successful with their application, I grant the tenant a onetime rent reduction from a future rent payable in the amount of \$100.00, to recover the cost of the filing fee.

As the tenancy will continue, I find if the landlord does choose to make the repairs the tenant must accommodate the landlord. This includes following instructions to prepare the unit, such as moving furniture or, vacating the premise for a short period of time, if necessary. The tenant must not interfere with any trade workers and must not deny access when given notice.

Also, I find that the tenant is not entitled to any compensation during this period of the renovation, as they must accommodate the landlord during the repairs, and any improvements made are for their benefit.

Conclusion

The tenant's application to cancel the Notice, is granted. The tenant is authorized a onetime rent reduction to recover the cost of the filing fee.

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: April 17, 2020

Residential Tenancy Branch