



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, RP, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenants filed under the Residential Tenancy Act (the “Act”), to cancel One Month Notice to End Tenancy for Cause (the “Notice”) issued on March 6, 2020, to have the landlord be order to make repairs to the unit and to recover the cost of 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.

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.

Issues to be Decided

Should the Notice issued be cancelled?
Should the landlord be ordered to make repairs to the rental unit?

Background and Evidence

The parties agreed that the Notice was served on the tenants indicating that the tenants are required to vacate the rental unit on April 30, 2020.

The reason stated in the Notice was that 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; and
- Put the landlord's property at significant risk.

The landlord's agent testified that the tenants caused a fire in the building, causing the entire building to be evacuated. The agent stated that the tenants' actions put the other occupants at risk, caused significant damage and put the landlord's property at risk.

The landlord's witness MM testified that they were woken by a fire in the building and hallways were filled with black smoke. The witness stated that they had to go outside and wait for the fire department to attend. The witness stated that it was another occupant that called 911, not the tenants.

MM testified that they had to let the fire department into the fire alarm room, so they could access the fire panel. The witness stated that the fire department stated that it could have been a grease fire, but that was not determined at the time. The witness stated that it was a very scary experience.

The male tenant testified that it was a very small grease fire, as some oil went over the pan causing a fire. The tenant stated this was an accident and they put the fire out. The tenant stated they did not call the fire department. The male tenant stated that the witness is exaggerating.

The landlord's agent DD testified that this was not a small grease fire, that was quickly extinguished. That it was a significant fire that had to be extremely hot as it melted the back of the stove, destroyed the hood fan, charred the drywall, charred the kitchen cabinets and melted the kitchen floor. DD stated that the tenants did not call the fire department putting the occupants of the building at significant risk.

Analysis

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

How to end a tenancy is defined in Part 4 of the Act. Section 47(1) of the Act a landlord may end a tenancy by giving notice to end the tenancy.

I have considered all of the written and oral submissions submitted at this hearing, I find that the landlord has provided sufficient evidence to show that:

- seriously jeopardized the health or safety or lawful right of another occupant or the landlord; and
- Put the landlord's property at significant risk.

In this case, there was a fire in the rental unit. While I accept it may have been accidental; however, neither of the tenants called 911, for the assistance of the fire department, and significant damage occurred. I find the actions of the tenants were neglectful and put the other occupants of the building at serious risk, as one of the tenants should have call 911 as soon as the fire occurred. This would have result in an earlier response to the fire and more than likely reduce the smoke and damage caused.

I find the Notice has been proven by the landlord and is valid and enforceable. Therefore, I dismiss the tenant's application to cancel the Notice.

As the landlord has accepted occupancy rent for the month of May 2020, I find it appropriate to extend the effective vacancy date in the Notice to May 31, 2020, pursuant to section 66 of the Act. Therefore, I find the landlord is entitled to an order of possession effective on the above extended vacancy date.

Since I have dismissed the tenants' application, I find that the landlord is entitled to an order of possession effective **May 31, 2020, at 1:00 P.M.** This order must be served on the tenants and may be filed in the Supreme Court.

As I have dismissed the tenants' application, I find it not necessary to consider the tenants request for repairs. Further, this was damage caused by the actions of the tenants. Under the Act the tenants are responsible for damage caused by their actions and may be responsible for the damage that occurred. However, I make no finding on that issue at today's hearing.

Since the tenants were not successful with their application, I find the tenants are not entitled to recover the filing fee from the landlords.

Conclusion

The tenants' application to cancel the Notice is dismissed. The landlord is granted an order of possession.

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: May 12, 2020

Residential Tenancy Branch