



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNC

Introduction

This hearing dealt with an application by the tenant for an order to set aside a notice to end tenancy for cause. 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 two support workers. The landlord represented himself.

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 June 10, 2014. Approximately two years ago, the current landlord took over the management of the building. On July 02, 2020, the landlord served the tenant with a one-month notice to end tenancy for cause. The tenant disputed the notice in a timely manner.

The landlord stated that on April 28, 2020, a fire inspection was conducted, and the report indicated that one of the two smoke detectors in the apartment had been disabled. The smoke detector was replaced.

Later that day, a neighbour heard a smoke alarm and found that it was coming from the tenant's apartment. She notified the landlord who arrived at the rental unit and used his key to enter, after there was no response to his knock on the door.

The landlord submitted that he noted smoke in the apartment and found that the oven was set at 500 degrees and was in operation in the absence of the tenant. The landlord switched off the oven and waited for the tenant to return.

The tenant stated that he had put apples to bake in the oven and had stepped out while they baked for an hour. The tenant stated that he intended to return within an hour. The tenant stated that upon his return, there was no smoke inside the apartment and the apples in the oven were not burnt. The tenant added that he was able to consume the apples that were in the oven as they were not overdone and were edible. The tenant admitted that he had removed one smoke detector and stated that the reason for doing so was that it was very sensitive and went off without reason.

The landlord emphasized that if the smoke detector had not been replaced that morning, the consequences could have been disastrous. The landlord stated that due to the pandemic, he waited until July 02, 2020 to serve the tenant with a notice to end tenancy for cause. The notice to end tenancy alleges that the tenant has put the landlord's property at significant risk.

The tenant stated that he has learnt a lesson from this event and will never leave the stove unattended again or disable the smoke detectors.

Analysis

In order to support the notice to end tenancy, the landlord must prove that the tenant has put the landlord's property at significant risk.

Based on all the evidence before me, I find that the tenant did disable a smoke alarm and did leave the oven on unattended which triggered the smoke alarm.

The tenant stated that he has lived in the rental unit for six years without incident or a notice to end tenancy from the landlord. The landlord agreed that since he took over the management of the building two years ago, there have been no issues with this tenancy.

During the hearing the tenant admitted to having disabled a smoke alarm because it was too sensitive and would go off with everyday cooking. The tenant agreed to never leave the stove on unattended and also agreed not to tamper with the smoke detectors.

From the evidence and testimony of both parties, I find that the tenant has not presented any problems for the landlord during his six year tenancy and therefore it appears that the incident on April 28, 2020 was isolated and not an ongoing pattern of behaviour for this tenant.

While I accept that the tenant behaved inappropriately by disabling the smoke detector and by leaving the stove on unattended, I find that the tenant took responsibility for his actions, was remorseful and testified that he had learnt from this incident and assured the landlord that it would not happen again.

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 July 02, 2020. As a result, the tenancy shall continue in accordance with its original terms.

The tenant would be wise to refrain from giving the landlord and other occupants of the residential complex, reason to complain or fear for their safety. 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.

Conclusion

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

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: August 10, 2020

Residential Tenancy Branch