



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PRINCESS DAPHNE APTS and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNSD, FFT
 MNDCL-S, MNDL-S, FFL

Introduction

This hearing dealt with cross Applications for Dispute Resolution filed by the parties under the *Residential Tenancy Act* (the “*Act*”). The matter was set for a conference call.

The Tenant’s Application for Dispute Resolution was made on August 4, 2020. The Tenant applied to cancel a One Month Notice to End Tenancy for Cause (the “*Notice*”) issued on July 28, 2020, for an order to repair the rental unit, for an order to provide services or facilities required by the tenancy agreement or law, and for an order for the Landlord to comply with the *Act*.

The Landlord’s Application for Dispute Resolution was made on August 21, 2020. The Landlord applied to enforce the One Month Notice to End Tenancy for Cause (the “*Notice*”) issued on July 28, 2020, for a monetary order for damages, for a monetary order for losses, for permission to retain the security deposit and to recover their filing fee.

Both the Landlord and the Tenant attended the hearing and were each affirmed to be truthful in their testimony. The Tenant and the Landlord were provided with the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Preliminary Matter- Landlord's Conduct Cautioned

During the hearing, the Landlord was cautioned several times regarding personal conduct, outbursts, and the interruption of this Arbitrator during the proceedings.

Both parties to this dispute were advised of the expected appropriate conduct during these proceedings.

When this Arbitrator attempted to inform the Landlord of their legal requirements regarding written warnings, notices, and acceptable evidence, the Landlord interrupted these proceedings again, refusing to listen to the direction of this Arbitrator. When the Landlord continued to disrupt these proceedings, and the Landlord's phonenumber was muted.

The Landlord was provided with guidance on acceptable behaviour, offered a minute to collect themselves and was then invited back to these proceedings.

Preliminary Matter- Landlord Cautioned Regarding Making a Recording

During the hearing, the Landlord advised this Arbitrator that they were recording the proceedings.

The Landlord was advised that recording these proceedings was a breach of the Residential Tenancy Branches Rules of Procedure, section 6.11, which states the following:

6.11 Recording of hearings

"Recording prohibited Persons are prohibited from recording dispute resolution hearings"

The Landlord was immediately ordered to stop recording and to destroy any and all recording of these proceedings.

The Landlord was also advised of the existence of the Residential Tenancy Branches Compliance Department and the possibility of fines for breaches of Residential Tenancy Branches Rules of Procedure, the Act or the Regulations.

Preliminary Matters- Related Issues

I have reviewed both the Landlord's and the Tenant's application, and I note that they have both applied to either enforce or cancel a notice to end tenancy as well as for several other issues. I find that some of these other issues are not related to the Notice. As these other matters do not relate directly to a possible end of the tenancy, I apply section 2.3 of the Residential Tenancy Branches Rules of Procedure, which states:

2.3 Related issues

Claims made in the application must be related to each other. Arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.

Therefore, I am dismissing with leave to reapply, the Landlord's claims for a monetary order for damages, for a monetary order for losses due to the tenancy, and for permission to retain the security deposit.

I am also dismissing with leave to reapply, the Tenant's claims for an order to repair the rental unit, for an order to provide services or facilities required by the tenancy agreement or law, and for an order for the Landlord to comply with the *Act*.

I will proceed with this hearing on the parties remaining claim to either enforce or cancel the One-Month Notice to end tenancy, and for the Landlord's claim to recover the filing fee paid for their application.

Issues to be Decided

- Should the Notice to End Tenancy issued July 28, 2020, be cancelled?
- If not, is the Landlord entitled to an order of possession pursuant to section 55 of the Act?
- Is the Landlord entitled to the return of his filing fee?

Background and Evidence

While I have turned my mind to all of the accepted documentary evidence and the testimony of the parties, only the details of the respective submissions and/or arguments relevant to the issues and findings in this matter are reproduced here.

The tenancy agreement shows that the tenancy began on January 1, 2020, as a three-month fixed term tenancy that rolled into a month to month tenancy at the end of the initial fixed term. Rent in the amount of \$950.00 is to be paid by the first day of each month, and the Landlord is holding a \$450.00 security deposit for this tenancy. The Landlord submitted a copy of the tenancy agreement into documentary evidence.

The Landlord testified that they served the Notice to end tenancy to the Tenant on July 28, 2020, by personal service. The Landlord submitted a copy of the Notice into documentary evidence.

The reason checked off within the Notice is as follows:

- *Tenant has allowed an unreasonable number of occupants in the unit/suite/property/park.*
- *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 of another occupant or the landlord*
 - *Put the landlord's property at significant risk*
- *Tenant or a person permitted on the property by the tenant has engaged in illegal activities that has, or is likely to:*
 - *Adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord.*
 - *Jeopardized lawful right or interest of another occupant or the landlord*

The Landlord testified that sometime in February 2020, the Tenant got a dog without their permission. The Landlord testified that they knew about that dog and had verbally told the Tenant that there were no pets in their tenancy agreement but that they could keep the dog for a few months. The Landlord testified that they did not issue a written warning regarding the pet or ask the Tenant to remove the pet from the property before issuing the Notice to end tenancy.

The Tenant testified that they did not have a pet when they moved in but agreed that they got a pet in February 2020. The Tenant testified that there are several pets in the rental building and that they had requested to add the pet to their tenancy.

The Landlord testified that at the beginning of the COVID-19 pandemic, the Tenant's girlfriend had moved into the rental unit without their permission. The Landlord testified that they agreed to the girlfriend staying for a couple of months but that now they want them to leave. The Landlord testified that the Tenant and the girlfriend fight all the time, which disturbers the other occupants of the rental building.

The Tenant testified that their girlfriend did move in with them and that they had requested that the girlfriend be added to their tenancy agreement. The Tenant testified that the Landlord has refused to add their girlfriend even though there are other renters living in the building with their spouses in the same size of rental unit.

The Landlord testified that they had refused to add the girlfriend to the tenancy as all they do is fight.

The Landlord testified that they believe the Tenant may be selling drugs from the rental unit, as they have people coming and going from the unit at all hours and that these people enter the unit by the Tenant's ground floor balcony.

The Landlord submitted two letters of complaint into documentary evidence to support their claim.

Analysis

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

I find that the Tenant received the Notice to End Tenancy on July 28, 2020. Pursuant to section 47 of the *Act*, the Tenant had ten days to dispute the Notice. I find the Tenant had until August 7, 2020, to file their application to dispute the Notice. The Tenant filed their application on August 4, 2020, within the statutory time limit.

After reviewing the Landlord's testimony and documentary evidence submitted to support their claim, I find there be insufficient evidence to support any of the reasons the Landlord had indicated on the Notice to end this tenancy.

I acknowledge the two complaint letters submitted into evidence by the Landlord; however, I find them to be of little evidentiary value to these proceedings. The First complaint letter is not dated or signed and makes general comments about the Tenant but offers no dates or details regarding specific events. The second letter is an exact copy of the first letter.

Consequently, I find that the Landlord has not proven sufficient cause to satisfy me, to terminate the tenancy for any of the reasons indicated on the Notice they issued. Therefore, I grant the Tenant's application to cancel the Notice issued July 28, 2020, and I find the Notice has no force or effect. This tenancy will continue until legally ended in accordance with the Act.

During these proceedings, the parties inquired about how best to proceed in their respective claims. The Landlord and the Tenant were advised that it was inappropriate to ask an Arbitrator for legal advice and were guided to the Residential Tenancy Branch information line of assistance or to seek legal representation.

Section 72 of the Act gives me the authority to order the repayment of a fee for an application for dispute resolution. As the Landlord has not been successful in their application, I find that the Landlord is not entitled to recover the filing fee paid for this application.

Conclusion

The Tenant's application to cancel the Notice, issued July 28, 2020, is granted. The tenancy will continue until legally ended in accordance with the Act.

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: September 14, 2020

Residential Tenancy Branch