



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, RP, FFT

Introduction

This hearing was convened by way of conference call concerning an application made by the tenant seeking an order cancelling a notice to end the tenancy for cause, an order that the landlord make repairs to the rental unit or property, and to recover the filing fee from the landlord for the cost of the application.

The tenant and the landlord attended the hearing and each gave affirmed testimony. The parties were given the opportunity to question each other and to give submissions.

The parties agree that evidence has been exchanged, all of which has been reviewed and is considered in this Decision.

Issue(s) to be Decided

- Has the landlord established that the One Month Notice to End Tenancy for Cause was given in accordance with the *Residential Tenancy Act*?
- Has the tenant established that the landlord should be ordered to make repairs to the rental unit or property?

Background and Evidence

The landlord does not recall when the tenancy began, however the tenant still resides in the rental unit. A written tenancy agreement exists but a copy has not been provided for this hearing. Rent is currently \$1,675.00 per month, payable on the 1st day of each month and there are no rental arrears. At the outset of the tenancy the landlord collected a security deposit from the tenant in the amount of half a month's rent at the

time, but the landlord does not recall how much was collected. No pet damage deposit was collected. The rental unit is a single family dwelling.

The landlord further testified that he served the tenant with 3 pages of a One Month Notice to End Tenancy for Cause by registered mail, but has not provided a copy for this hearing. The landlord testified that it was dated October 13, 2021 and contains an effective date of vacancy of November 30, 2021. The reason for issuing it is that the tenant has been late with the rent 4 times.

The landlord also testified that he told the tenant he will repair the bathroom. The tenant showed the landlord the drywall, but it was wet and now needs to dry and then be replaced. The landlord can have it and the roof assessed within 15 days and then will have the roof repaired.

The tenant testified that he received the front and back pages of a One Month Notice to End Tenancy for Cause and has provided a copy of the front page only. It is dated October 8, 2021 and contains an effective date of vacancy of December 1, 2021.

The tenant further testified that since the beginning of the tenancy the tenant was giving the landlord's property manager post-dated cheques for 6 months at a time. The landlord asked that the tenant start paying rent by e-transfers about 4 or 5 months ago, and rent has been late by 1 day a few times because the tenant was accustomed to paying by post-dated cheque and it slipped his mind.

The tenant moved into the rental unit 9 years ago and does not recall signing a tenancy agreement. No security deposit or pet damage deposit were paid to the landlord; the house was in such disrepair when the tenant moved in that repairs were required. The tenant repainted and replaced flooring, such as laminate at the tenant's own expense as well as numerous other repairs.

The tenant noticed a leak in the spring of 2019 and told the landlord right away, who said he would deal with it. The problem still exists, and has for 2 ½ years and is getting worse; mushrooms are growing in the corners and the landlord saw that and has been there a few times. The landlord told the tenant to paint it with mold covering paint, and asked the tenant's wife why the tenant hasn't repaired it. The tenant has done some work but is not comfortable replacing a roof. The landlord says he can't get anyone due to COVID, however a girl was walking through the neighbourhood from a roofing company handing out cards. The tenant asked the girl to contact the landlord and gave her the landlord's contact information. That was this last summer.

The tenant has also provided photographs of the bathroom of the rental unit showing large areas of paint peeled off the ceiling.

Analysis

Firstly, where a tenant disputes a notice to end a tenancy given by a landlord, the onus is on the landlord to establish that it was given in accordance with the *Residential Tenancy Act*. In this case, the landlord has not provided any pages of such a Notice, and the tenant testified that he received the front and back pages only, and has only provided the first page of a 3-page document.

I am not satisfied that the landlord has established that the Notice given is in the approved form or that the landlord has complied with the *Act*. Therefore, I cancel the Notice and the tenancy continues.

The tenant testified that the landlord asked the tenant's wife why the tenant hasn't made the repairs. The landlord did not dispute that testimony, or the testimony of the tenant that the tenant has made numerous repairs over the last 9 years at his own expense. The law places the onus on the landlord to provide and maintain a rental unit to a tenant in a state of decoration and repair that makes it suitable for occupation by a tenant. In this case, I am satisfied that the landlord has failed to do so.

During the hearing the landlord testified that he can get the roof repaired and an assessment can be done within the next 15 days. I order that the landlord commence the process by having the assessment done by a qualified roofing company no later than December 4, 2021. I further order the landlord to complete the repairs to the walls, roof and ceilings as soon as the roofing company and other maintenance personnel can schedule those repairs. If the landlord fails to do so, the tenant will be at liberty to apply for monetary compensation for the landlord's failure to comply with this order.

Since the tenant has been successful with the application the tenant is also entitled to recovery of the \$100.00 filing fee. I grant a monetary order in favour of the tenant in that amount and I order that the tenant be permitted to reduce rent for a future month by that amount or may otherwise recover it by filing the order for enforcement in the Provincial Court of British Columbia, Small Claims division as a judgment.

Conclusion

For the reasons set out above, the One Month Notice to End Tenancy for Cause dated October 8, 2021 is hereby cancelled and the tenancy continues.

I order the landlord to commence repairs to the rental unit by having the roof assessed by no later than December 4, 2021 and that the landlord complete repairs to the walls, roof and ceilings as soon as the roofing company and other maintenance personnel can schedule those repairs, failing which the tenant will be at liberty to apply for monetary compensation for the landlord's failure to comply with this order.

I hereby grant a monetary order in favour of the tenant as against the landlord pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$100.00 and I order that the tenant be permitted to reduce rent for a future month by that amount or may otherwise recover it.

This order is final and binding and may be enforced.

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: November 19, 2021

Residential Tenancy Branch