



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **FFT, CNC, LRE, LAT**

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant to cancel a One Month Notice to End Tenancy for Cause (the “Notice”, issued on September 15, 2021, to suspend or set conditions on the landlord’s right to enter the unit; for authorization to change the locks to the rental 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, Both parties confirmed they were not recording the hearing.

In a case where a tenant has applied to cancel a Notice, Rule 11.1 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 cause sufficient to terminate the tenancy for the reasons given on the Notice.

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

I note the tenant has ask for authorization to change the locks; however, the tenant has already changed the locks, without the consent of the landlord and without an order from the Director.

Issue(s) to be Decided

Should the Notice be cancelled?

Should the landlord rights to enter the unit be suspend or set conditions?

Background and Evidence

The Notice was served on the tenant indicating that the tenant is required to vacate the rental unit on October 16, 2021.

The reason stated in the Notice was that the tenant has:

- Breached a material term of their tenancy agreement that was not corrected within a reasonable time after written notice to do so; and
- Tenant knowingly gave false information to a prospective tenant or purchaser of the rental unit or property.

The landlord's agent testified that they discovered the tenant had changed the locks to the rental unit during an incident in July 2021, where the fire department wanted to check the units to determine where the smoke was coming from. The agent stated that they have been trying to obtain a key from the tenant; however, they are refusing to provide on.

The landlord's agent testified that the tenant is giving false information to other tenants and claiming they are not giving proper notice to enter and make false allegation such as stealing from rental units.

The tenant agreed that they have not provided a key to the landlord. The tenant acknowledged they were in violation of the Act.

The tenant submits in their application that they want to suspend or set conditions on the landlord's right to enter.

Analysis

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

In this case, I am satisfied that the tenant is in violation of the Act, when they changed the locks to the rental without the consent of the landlord. While clearly the tenant knows they are in breach of the Act and has refused to give a key based on their verbal

demands of the landlord. However, I find the landlord did not give the tenant written notice as required by the Act.

While the tenant may be interfering with the landlord's lawful rights if they are giving false information to other tenants and making unfounded allegations. However, the reasons for the notice was the tenant knowingly gave false information to a prospective tenant or purchaser of the rental unit or property.

Although, I find the landlord may have merit to end the tenancy; however, I find I cannot uphold the Notice, as the landlord has not given the tenant written notice as required by the Act to end the tenancy for breach of a material term and has selected the wrong reasons as the occupants are not a prospective tenant or a purchaser. Therefore, I grant the tenant's application to cancel the Notice.

I do not grant the tenant's request to suspend or set condition on the landlord's right to enter. As I have no evidence that the landlord has violated the Act. Therefore, I dismiss this portion of the tenant's claim.

In this case, I find the tenant is in violation of the Act, when they changed the locks and has not given a key to the landlord even after verbally be asked to do so. This puts the landlord's property at risk, if they cannot access for an rental unit for emergency purpose, such as when the fire department attended.

I note the tenant in their application states "... I refuse to give a key to my unit". I find it appropriate to make the following Order against the tenant.

I Order the tenant that they must give the landlord a copy of the key that gives access to the rental unit no later than 4 PM on February 9, 2022. Should the tenant fail to comply with my Order than the landlord is entitled to issue a new One Month Notice to End Tenancy for Cause, for failing to comply with an order of the director.

I decline to award the tenant the cost of their filing fee. As they are violation of the Act, and it was only because the landlord did not given written notice that the tenancy is continuing although it is clear the tenant has been asked to provide a key and simply refuses to do so.

Conclusion

The Notice is cancelled. The tenant's application to suspend or set condition on the landlord's right to access the rental unit and recover the cost of the filing is dismissed. I order the tenant to provide a key that gives access to the rental unit no later than 4PM on February 9, 2022. Failure to comply with my order will put your tenancy at risk.

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: February 04, 2022

Residential Tenancy Branch