



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNC, OLC, LRE, FF

Introduction

This hearing dealt with an application by the tenant for an order to set aside a notice to end tenancy for cause. The tenant also applied for an order directing the landlord to comply with the *Act*, to place restrictions of the landlord's right to enter the rental unit and for the recovery of the filing fee.

Both parties attended the hearing and had opportunity to be heard. The parties acknowledged receipt of evidence submitted by the other. Both parties gave affirmed testimony.

RTB Rules of Procedure 2.3 states that if in the course of a dispute resolution proceeding, the Arbitrator determines that it is appropriate to do so, the Arbitrator may dismiss unrelated disputes contained in a single application with or without leave to reapply. In this regard I find the tenant has applied for an order for the landlord to comply with the *Act* and for an order restricting the landlord's access to the rental unit. As these sections of the tenant's application are unrelated to the main section, which is to cancel the one-month notice, I dismiss these sections of the tenant's claim, with leave to reapply.

Accordingly, this hearing only dealt with the tenant's application to set aside the notice to end tenancy.

Issue to be Decided

Does the landlord have grounds to end this tenancy?

Background and Evidence

The tenancy began on October 01, 2021. The monthly rent is \$680.00 payable on the first of each month. The rental unit consists of a one level bungalow with six bedrooms and two and a half bathrooms. The landlord rents out each bedroom separately. The six tenants share the washrooms, living room and kitchen.

On January 22, 2023, the landlord served the tenant with a one month notice to end tenancy for cause. The reasons for the notice are:

- The tenant has significantly interfered with or unreasonably disturbed another occupant.
- The tenant has breached a material term of the tenancy agreement, that was not corrected within a reasonable time after written notice to do so.

The landlord testified that prior to serving the tenant with the notice to end tenancy, he received noise complaints from the other occupants of the rental home. The tenant admitted that he listened to music on his phone, in the common areas but after being notified by the landlord of the complaint he stopped doing so.

The landlord also stated that the tenant had the volume of his television high enough to disturb the occupant of the adjacent room. The tenant responded by saying the walls were not insulated and he also heard the television from the adjacent room. The tenant added that he made efforts to keep the volume down and currently does not own a television. The landlord agreed that there have been no noise complaints after the tenant was served with notice to end tenancy in January 2023.

The landlord stated that he received complaints that the tenant leaves the bathroom floor wet after a shower. The tenant stated that he makes sure the floor is wiped down after he showers.

The landlord also testified that he has received complaints that the tenant hair is clogging the drain. The tenant stated that he uses a receptacle to cover the drain in the shower to avoid his hair going down the drain. He admitted that he has long hair but added that he makes efforts to avoid clogging the drain.

The landlord stated that there were some yellowish stains on the bathroom countertop. The tenant denied having caused them and stated that they have been there from the start of his tenancy. The landlord insinuated that the tenant caused the stains by

smoking. The tenant agreed that he used to smoke but never did so in the house. He added that he stopped smoking about a year ago.

The landlord stated that the tenant left the main door wide open past midnight on two occasions. The tenant denied the allegation.

Analysis

In order to support the notice to end tenancy, the landlord must prove at least one of the grounds alleged, namely that the tenant has significantly interfered with or unreasonably disturbed another occupant and/or the tenant has breached a material term of the tenancy agreement, that was not corrected within a reasonable time after written notice to do so.

Based on all the evidence before me, I accept that the tenant may have caused some noise disturbances in the past, but the landlord agreed that the complaints stopped after the notice to end tenancy was served on the tenant.

From the evidence and testimony of both parties, I find that the rental unit is occupied by six individual tenants and it is not unusual for the landlord to receive complaints that are related to everyday activities. In addition is difficult to determine which of the six tenants are responsible for the activity that caused the complaint.

I also find that the tenant agreed that he had caused noise disturbances and smoked in the past but also spoke of his intentions to remedy any situations that may come up in the future.

Based on my findings, I am not satisfied that the actions of the tenant justify bringing this tenancy to an end. I therefore allow the tenant's application and set aside the landlord's notice to end tenancy dated January 22, 2023. 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. 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.

Since the tenant is successful in his application, I award him the recovery of the filing fee of \$100.00.

Conclusion

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

The tenant may make a one-time deduction of \$100.00 from a future rent.

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 25, 2023

Residential Tenancy Branch