



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

A matter regarding Helping Spirit Lodge Society
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC, MNDCT, RP, AS, FFT

Introduction

The Tenant filed an Application for Dispute Resolution (the “Application”) on May 5, 2023 seeking

- a. a cancellation of the Landlord’s One-Month Notice to End Tenancy for Cause (the “One-Month Notice”)
- b. repairs made to the rental unit, not completed after the Tenant contacted the Landlord in writing
- c. reimbursement of the Application filing fee
- d. compensation for monetary loss
- e. Landlord’s permission to assign/sublet.

The matter proceeded by way of a hearing pursuant to s. 74(2) of the *Residential Tenancy Act* (the “Act”) on August 8, 2023. In the conference call hearing, I explained the process and provided the attending parties the opportunity to ask questions.

The Landlord confirmed they received the Notice of Dispute Resolution Proceeding from the Tenant. They separately received evidence from the Tenant for this hearing. The Landlord did not provide documentary evidence on their own.

Preliminary Matter – Tenant’s claim for compensation

On their Application, the Tenant provided the amount of \$100, and wrote “filing fee if not waived”. I find the Tenant made a repeat indication that they would like reimbursement for the Application filing fee. I cover this in a separate section, set out below. I dismiss this piece of the Tenant’s Application, without leave to reapply.

Preliminary Matter – Tenant's request for assign/sublet permission

The Tenant presented that the family member who attended the hearing, representing the Tenant on the agreement, should be added to the tenancy agreement. The agreement has existed since the start of the tenancy with the one Tenant

The Landlord presented that the Tenant is required, on a yearly basis, to complete a 'rent review'. The Landlord who attended the hearing stated that the Tenant's family member, who has lived in the rental unit with the Tenant for quite some time, never completed the form to list themselves as an occupant in the rental unit. Based on my knowledge, training, and experience, I find this is strictly necessary for the government-delegated authority to determine the appropriate rent amount in this type of living arrangement.

I find the Landlord's account credible, and it underlines the need for the Tenant and/or family member occupant to be forthcoming on the living arrangement in the rental unit. The Tenant's family member not being named on the tenancy agreement, to date, appears to have not caused a problem in terms of an ongoing tenancy or the Tenant's rights and obligations. I leave the matter with the Landlord to determine whether a renewed tenancy agreement should be provided in these circumstances. The Tenant may apply to the Residential Tenancy Branch for assistance if the situation remains problematic.

Issues to be Decided

- a. Is the Tenant entitled to cancellation of the One-Month Notice?

If the Tenant is unsuccessful in their Application, is the Landlord entitled to an order of possession in line with the One-Month Notice as per s. 55 of the *Act*?

- b. Is the Landlord obligated to make repairs in the rental unit, as identified comply with the *Act* and/or the tenancy agreement?
- c. Is the Tenant entitled to compensation for the Application filing fee, pursuant to s. 72 of the *Act*?

Background and Evidence

In the hearing the Tenant described living in the rental unit since 2000 and provided the start-of-tenancy date on the Application as December 15, 2000. The Landlord took over management of the building in 2011. The Tenant signed the current version of the tenancy agreement in 2011; this was not provided in the Tenant's evidence.

a. the One-Month Notice

The Tenant did not provide a copy of this document in their evidence. The Landlord also did not provide a copy.

As indicated in their Application, the Tenant received this document from the Landlord on April 25, 2023. The reasons, as stated in the hearing, were for too many occupants in the rental unit, and damage to the rental unit from water. The Landlord provided a description of the water issue, with the Tenant having access to a functioning washroom, and being instructed not to use it during the current renovation project. The Landlord described going to the same unit repeatedly for this issue (seven visits by a plumber in 2023), with an overflowing bathtub, because of the Tenant, being a persistent concern.

The Tenant stated they required instructions on how to use the bathtub correctly in order to prevent overflow. The Tenant also described a plumber visiting to change out a nozzle that the Tenant had modified.

The Landlord in the hearing confirmed the reason for ending the tenancy.

b. repairs in the rental unit

On the Application, the Tenant provided as follows:

Bathroom ceiling still leaking when advised them to a recent leak and showed them there is a soft patch in the ceiling. A friend noticed the slight sag in the ceiling. It was about a foot by a foot soft ceiling which has lead into a drip leak. Concerns of the overflow not properly installed which lead to further leaking into their office.

In the hearing, the Tenant stated that repairs were underway as of the date of the hearing. This took 4 months for the Landlord to undertake completion of repairs in the washroom. The Landlord stated they are "working on remodelling" the rental unit. A plumber visited the rental

unit in the week prior “to replace plumbing, walls, floor, everything.” The Landlord also confirmed a pending timeline, with another week for a complete remodel, as of the hearing date.

c. Application filing fee

As set out above, the Tenant applied for reimbursement of the \$100 Application filing fee.

Analysis

a. the One-Month Notice

Any document presented by a landlord to end a tenancy under various sections of the *Act* is subject to s. 52 of the *Act* which strictly governs form and content.

For the One-Month Notice (*i.e.*, that document served to the Tenant by the Landlord in April 2023), I find there is no copy in the Tenant’s evidence. The onus to prove an end-of-tenancy notice is on the Landlord. The Landlord did not provide a copy in response to the Tenant’s Application to the Residential Tenancy Branch.

There is no complete copy of a signed One-Month Notice in the evidence for this hearing. I cannot issue an order of possession in this instance, where s. 55(1)(a) sets the strict requirement that any notice to end tenancy must comply with s. 52.

For this reason, I order the One-Month Notice, ostensibly issued by the Landlord to the Tenant on April 25, 2023, is cancelled and of no effect. The tenancy will not end by reason of the Landlord’s service of this document to the Tenant.

b. repairs in the rental unit

I find the Landlord acknowledged there were more systemic issues involving plumbing in the building. As of the date of the hearing, the rental unit washroom was being remodelled and renovated. This includes work on the plumbing that was proving to be problematic.

I find the Landlord has undertaken to make repairs in the rental unit washroom. I dismiss this part of the Tenant’s Application, without leave to reapply, for this reason. The Tenant in the hearing acknowledged that repairs were underway.

c. Application filing fee

I find the Tenant was successful in this Application. I grant reimbursement of the Application filing fee, in the amount of \$100. I authorize the Tenant, as per s. 72(2)(a), to deduct this amount – exactly \$100 – from their next rent payment, in September 2023.

Conclusion

I grant the Tenant's Application for cancellation of the One-Month Notice. There is no order of possession to the Landlord. The tenancy shall continue.

I dismiss the other pieces of the Tenant's Application for the reasons set out above, without leave to reapply. The Tenant may recover the Application filing fee.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under s. 9.1(1) of the *Act*.

Dated: August 9, 2023

Residential Tenancy Branch