



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Introduction

This hearing dealt with the Tenant's Applications for Dispute Resolution under the *Residential Tenancy Act* (the "Act") for:

- Cancellation of a 10-Day Notice to End Tenancy for Unpaid Rent or Utilities (the 10-Day Notice) pursuant to section 46.
- Cancellation of the Landlord's One Month Notice to End Tenancy for Cause (the One Month Notice) under section 47 of the Act

Preliminary Issue

- Rent Paid

The Landlord's agent JD (the "Landlord's Agent") advised that the Tenant paid the unpaid rent within 5 days of receiving the 10-Day Notice. Given that the Tenant paid the unpaid rent that was requested under the 10-Day Notice, the 10-Day Notice signed June 8, 2023, is of no force or effect.

- Tenant's Evidence

The Landlord's Agent argued that the Tenant never served the Landlord with their evidence, and they had to receive a courtesy copy of the evidence from the RTB on August 2, 2023. The Landlord's Agent argued this evidence should be excluded. The Tenant's agent HR (the "Tenant's Agent") argued that the Tenant tried to serve the Landlord with the evidence, but the Landlord would not accept it. The Tenant met the Landlord in person, but the Landlord declined to sign a piece of paper accepting the evidence. The Landlord's Agent disputed this and argued the Landlord made several attempts to collect the evidence, but the Tenant would not respond.

Allowing the Tenant's evidence to be submitted does not unreasonably prejudice the Landlord, considering the Landlord was able to provide ample evidence to support their claim and the Landlord's Agent received the Tenant's evidence from the RTB prior to the hearing. As such, I find that the Tenant's evidence can be admitted.

Issues to be Decided

Should the Landlord's One Month Notice be cancelled? If not, is the Landlord entitled to an Order of Possession?

Background and Evidence

I have reviewed all evidence, including the testimony of the parties, but will refer only to what I find relevant for my decision.

Evidence was provided showing that this tenancy began on June 1, 2021, with a monthly rent of \$750.00, due on the first of the month and security deposit of \$350.00 paid at the outset of the tenancy. The Landlord lives upstairs of the rental unit, while the rental unit is in the basement.

The Tenant was served with the One Month Notice on June 13, 2023, and the Tenant has applied to dispute it. The reasons selected on the One Month Notice were the Tenant significantly interfered with or unreasonably disturbed another occupant or the landlord, seriously jeopardized the health or safety or lawful right of another occupant or the landlord and put the landlord's property at significant risk.

The Landlord's Agent argued that the Tenant has failed to maintain reasonable health, cleanliness and sanitary standards. Also, it was argued the Tenant has put the property at risk and jeopardized safety and health by collecting cans and bottles, causing a mice infestation, and not keeping the rental unit clean.

Mice:

The Landlord's Agent argued since May 2022 there has been a mice infestation on the property due to the Tenant not keeping their rental unit clean. Additionally, the Tenant would not allow the pest control company into their rental unit to set traps or inspect the mouse problem. The Landlord's Agent advised as of recently no mouse droppings have been found upstairs where the Landlord lives, but downstairs leading to the rental unit some mouse droppings have been found.

The Tenant argued the Landlord told them not to let the pest control company inside the rental unit and that the pest control company never asked to come inside. Additionally, the Tenant argued the mice problem has resolved downstairs.

Items Blocking Rental Unit Door

The Landlord's Agent argued that the Tenant has garbage bags and other items blocking the door, which is a safety hazard.

The Tenant's Agent argued that as of August 5, the Tenant cleaned that area up.

Cleanliness and Collection of Cans/Bottles

The Landlord's Agent argued the Tenant's rental unit is a mess and pointed to several witness statements that support the state of the rental unit. The Landlord's Agent also mentioned that the Tenant collects cans and bottles in garbage bags and leaves them outside the rental unit. A letter was given to the Tenant May 5, 2023, asking the Tenant to remove all garbage bags, clean the rental unit and allow an inspection on June 1, 2023. The Tenant did not allow the inspection to occur and has repeatedly failed to clean the rental unit. The Landlord's Agent argued as of August 3, 2023, the Tenant did not clean up the garbage bags from outside the rental unit and by August 4, 2023, the Tenant still had one garbage bag outside the rental unit.

The Tenant's Agent argues that the Tenant has rectified the situation and has been made aware of the cleanliness and safety standard they must maintain. The Tenant's Agent argues that as of August 5, 2023, the Tenant cleaned both inside and outside the rental unit.

Verbal Abuse

The Landlord's Agent argued that the Tenant has been verbally abusive to the Landlord, which has significantly interfered with or unreasonably disturbed the Landlord. The Landlord's Agent stated there is no video evidence of this but argued there is written statements from a neighbour and the plumber that did work at the rental unit of the verbal abuse from the Tenant on June 8, 2023.

Analysis

Should the Landlord's One Month Notice be cancelled? If not, is the Landlord entitled to an Order of Possession?

Section 47 of the Act states that a Landlord may issue a Notice to End Tenancy for Cause to a Tenant if the Landlord has grounds to do so. Section 47 of the Act states that upon receipt of a Notice to End Tenancy for Cause the Tenant may, within ten days, dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. If the Tenant files an application to dispute the notice, the Landlord bears the burden to prove the grounds for the One Month Notice.

As the Tenant disputed this notice on June 14, 2023, and since I have found that the One Month Notice was served to the Tenant on June 13, 2023, I find that the Tenant has applied to dispute the One Month Notice within the time frame allowed by section 47 of the Act. I find that the Landlord has the burden to prove that they have sufficient grounds to issue the One Month Notice.

Based on the evidence before me, the testimony of the parties, and on a balance of probabilities, I find the Landlord has failed to prove that they have sufficient cause to issue the One Month Notice to the Tenant and obtain an end to this tenancy.

Significantly Interfered with or Unreasonably Disturbed

There were 2 witness statements about an incident between the Tenant and Landlord, where the Landlord's Agent argues the Tenant was verbally abusive. However, the witness statements only speak of one incident between the Landlord and the Tenant which I find fails to reach the threshold of being significant or unreasonable. I find that the Landlord has provided insufficient evidence to show that the Tenant significantly interfered with or unreasonable disturbed the Landlord.

Seriously Jeopardized Health or Safety or Lawful Right of the Landlord Put the Landlord's Property at Significant Risk

Evidence shows that the Tenant failed to cooperate with the inspection by the pest control company. Additionally, the Landlord has provided witness statements that support the rental unit was not kept reasonably clean and tidy. However, I must consider the current state of the rental unit.

The pest control reports do not indicate where the mouse problem originated from and there is a second unit beside the rental unit which could have been the cause of the problem. Additionally, as of recently the Landlord's Agent stated that the Landlord has not had any issues with mice but there has been some droppings downstairs. The Tenant stated that the mice problem has resolved.

Additionally, I accept the testimony of the Tenant's Agent that the Tenant has taken steps to clean the rental unit. The Tenant provided photographic evidence that shows the rental unit in a reasonably tidy and clean condition. As well, the Tenant's Agent advised they informed the Tenant of the health and safety standards they must maintain in the rental unit. Furthermore, as of August 4, 2023, the Landlord's Agent admitted only one garbage bag was left outside the rental unit.

I find that the circumstances leading to the One Month Notice have been addressed such that the Tenant no longer poses a significant risk to the property or to the health and safety of the Landlord. I find I must cancel the One Month Notice dated July 13, 2023, due to the post-notice conduct of the Tenant.

Conclusion

The Tenant's application is granted for cancellation of the One Month Notice under section 47 of the Act. The One Month Notice of June 13, 2023 is cancelled and is of no force or effect. This tenancy continues until it is 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: August 14, 2023

Residential Tenancy Branch