



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Introduction

This hearing was convened in response to an application by the Tenant pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order cancelling a notice to end tenancy - Section 47; and
2. An Order for the Landlord’s compliance - Section 62.

The Landlord did not attend the hearing. The Tenant states that the Landlord was served with the application for dispute resolution and notice of hearing (the “Hearing Package”) by express post mail on September 15, 2022. The Tenant confirmed with the post office that the mail was sent out for delivery. There is no indication that the Landlord has taken any steps to obtain any relief or to follow up on the notice to end tenancy that is dated August 23, 2022 and sets out an effective date of September 30, 2022.

Section 71(2)(c) of the Act provides that the director may order that a document not served in accordance with section 88 or 89 is sufficiently given or served for purposes of this Act. Given the Tenant’s evidence of postal office confirming that the Hearing Package was sent, I find that the Hearing Package was sufficiently served for the purposes of this Act. The Tenant was given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Tenant entitled to a cancellation of the notice to end tenancy?

Is the Tenant entitled to an order for the Landlord’s compliance?

Background and Evidence

The tenancy started on June 1, 2021. Rent of \$280.00 is payable on the first day of each month. At the outset of the tenancy the Landlord collected \$414.00 as a security deposit and \$414.00 as a pet deposit. On August 23, 2022 the Tenant was given a one month notice to end tenancy for cause dated August 23, 2022 (the "Notice"). The Notice sets out two reasons, based on illegal activities, for issuing the Notice with details included. The Tenant states that the Landlord's reasons are not valid to end the tenancy and submits that there has been no illegal activity.

The Tenant states that the Landlord has issued the Notice based on lies from two other tenants in the building. The Tenant wants the Landlord to stop doing this and seeks an order for the Landlord's compliance. The Tenant is concerned that the Landlord will continue to attempt to use the same facts or complaints to base the issuance of a future notices to end tenancy.

Analysis

Section 47(1)(e) of the Act provides that a landlord may end a tenancy by giving notice to end the tenancy if the tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that

- (i) has caused or is likely to cause damage to the landlord's property,
- (ii) has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property, or
- (iii) has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord.

Based on the Tenant's undisputed evidence that no illegal activities have been engaged in by the Tenant I find that the Notice is not valid for its reasons. The Tenant is therefore entitled to a cancellation of the Notice and the tenancy continues.

Section 62(3) of the Act provides that the director may make any order necessary to give effect to the rights, obligations and prohibitions under this Act, including an order that a landlord or tenant comply with this Act, the regulations or a tenancy agreement and an order that this Act applies. As the only basis for seeking an order for compliance is based on the Landlord's issuance of the Notice based on complaints from other tenants and as the Act allows a landlord to issue notices to end tenancy where other tenants are disturbed, I find that the Tenant has not substantiated that the Landlord is not in compliance with the Act or tenancy agreement. I therefore dismiss this claim. The Landlord is however cautioned against issuing another notice to end tenancy based on the same details as those contained in the Notice as the Notice has been found to have invalid reasons based on those details. Further, should the Landlord issue repeat invalid notices to end tenancy the Tenant is at liberty to make a claim for compensation.

Conclusion

The Notice is cancelled, and the tenancy continues.

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

Dated: October 18, 2022

Residential Tenancy Branch