



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes RR, RP, LAT, CNC, OLC, FFT

Introduction

This hearing dealt with the tenant's two applications pursuant to the *Residential Tenancy Act* (the *Act*) for:

- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 47;
- authorization to change the locks to the rental unit pursuant to section 70;
- an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement pursuant to section 62;
- an order to the landlord to make repairs to the rental unit pursuant to section 32;
- an order to allow the tenant(s) to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65; and
- authorization to recover the filing fees for this application from the landlord pursuant to section 72.

Both parties attended the hearing and were given full opportunity to present evidence and make submissions. The parties acknowledged receipt of evidence submitted by the other and gave affirmed testimony.

Preliminary Issue- Severance

Residential Tenancy Branch (RTB) Rule of Procedure 2.3 states that claims made in an Application for Dispute Resolution must be related to each other. Arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.

It is my determination that the priority claims regarding the One Month Notice and the continuation of this tenancy are not sufficiently related to any of the tenant's other claims to warrant that they be heard together. The parties were given a priority hearing date in order to address the question of the validity of the Notice to End Tenancy.

The tenant's other claims are unrelated in that the basis for them rests largely on facts not germane to the question of whether there are facts which establish the grounds for ending this tenancy as set out in the Notice to End Tenancy. I exercise my discretion to dismiss all of the tenant's claims with leave to reapply except cancellation of the notice to end tenancy and recovery of the filing fee for this application.

Issue(s) to be Decided

1. Is the tenant entitled to cancellation of the One Month Notice to End Tenancy for Cause, pursuant to section 47 of the *Act*?
2. Is the tenant entitled to recover the filing fee for this application from the landlord, pursuant to section 72 of the *Act*?

Background and Evidence

LC gave the following testimony. LC testified that on August 23, 2023 a One Month Notice to End Tenancy for Cause was issued for the following reasons:

Landlord's notice: cause

47 (1)A landlord may end a tenancy by giving notice to end the tenancy if one or more of the following applies:

(d)the tenant or a person permitted on the residential property by the tenant has

(iii)put the landlord's property at significant risk;

(f)the tenant or a person permitted on the residential property by the tenant has caused extraordinary damage to a rental unit or residential property;

(g)the tenant does not repair damage to the rental unit or other residential property, as required under section 32 (3) [*obligations to repair and maintain*], within a reasonable time;

(h)the tenant

(i)has failed to comply with a material term, and

(ii)has not corrected the situation within a reasonable time after the landlord gives written notice to do so;

(j)the tenant knowingly gives false information about the residential property to a prospective tenant or purchaser viewing the residential property;

LC testified that the tenants have plugged the drain in the laundry room with cat litter. LC testified that the tenants are responsible for this and other damage to the unit on the property. LC testified that the tenants removed window screens and a cover for the air conditioning unit. LC testified that she believes the tenants are purposely doing these things so that they can break the lease and move out. LC testified that she has attempted to have the issues repaired but the tenants either refused access when tradespeople attend or are hostile to them resulting them in not wanting to return to do the work.

LC testified that she has even attempted to walk the tenants through the repairs by video chat as she lives 600 kilometres away from the rental property. LC testified that the relationship between them is now a war of words and extremely difficult. LC testified that the tenants have slandered her name in the community and that she doesn't want to be around them and asks that this tenancy end.

CM testified that the landlord is the hostile party and not him. CM testified that he believes the landlord doesn't want to spend the money on the repairs and is attempting to make him pay to repair the clogged washing machine drain. CM testified that he did not put kitty litter in the drain and that he hasn't done anything to damage the property. CM testified that he has not restricted access but does prefer to be in the unit when repairs are done as the relationship is now strained. CM testified that he has offered to arrange to find someone to do the repairs as long as the landlord pays for it. CM testified that they want to keep living in the unit.

Analysis

While I have turned my mind to all the documentary evidence and the testimony of the parties, not all details of the respective submissions and arguments are reproduced here. The principal aspects of the notice and my findings around each are set out below.

When a landlord issues a notice under Section 47 of the Act, **the landlord bears the responsibility in providing sufficient evidence to support the issuance of that notice.** It was evident in the hearing that the relationship between the landlord and tenant is an acrimonious one. Each of them continually stated that the other person was

lying. Despite the documentation submitted by each party outlining the hostility towards one another, the primary and priority issue to address was whether the tenancy must end or continue.

As noted, the landlord bears the responsibility of providing sufficient evidence to justify the end of this tenancy. However, the landlord has failed to provide sufficient evidence to support any of the grounds checked off on the notice. The documentation provided has not satisfied me that this tenancy should end, accordingly; I hereby cancel the One Month Notice to End Tenancy for Cause dated August 23, 2023, it is of no effect or force.

The tenants are entitled to the recovery of the \$100.00 filing fee for this application only. The tenants are entitled to a one time rent reduction of \$100.00 for the rent due on December 1, 2023.

Conclusion

The One Month Notice to End Tenancy for Cause dated August 23, 2023 is cancelled. 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 *Residential Tenancy Act*.

Dated: October 30, 2023

Residential Tenancy Branch