

IN THE SMALL CLAIMS COURT OF NOVA SCOTIA

Cite as: Thompson v. Cygnet Properties Ltd., 2016 NSSM 42

BETWEEN:

Name Steven N. Thompson

**Appellant/
Tenant**

Name Cygnet Properties Ltd.

**Respondent/
Landlord**

Editorial Notice: Addresses and phone numbers have been removed from this electronic version of the judgment.

Date of Hearing: March 10, 2016.

Date of Decision: March 14, 2016

Lynda Mason and Gary Wamboldt appeared for the Landlord, Cygnet Properties Ltd.

Steven N. Thompson – Self-Represented

DECISION

This is an appeal of the Decision and Order of Residential Tenancies Officer, Gerard Deal, dated February 17, 2016.

The original dispute arose when the landlord, Cygnet Properties Ltd. (“Cygnet Properties”) advised the Tenant, Steven Thompson, that he must vacate from his premises as they were ordered shut down due to the property violating several sections of the Halifax City Charter respecting rooming houses on Lucknow Street.

An appeal from the decision of a Residential Tenancies Officer is a new hearing based on the evidence presented before the Small Claims Court Adjudicator. The evidence presented usually

consists of that presented to the Residential Tenancies Officer and any additional evidence the parties seek to adduce.

The Facts

Steven Thompson has been a tenant at 1130 Lucknow Street since July, 2014, when he moved into the building from the Salvation Army facility in Halifax. Prior to moving to Nova Scotia, he resided in Toronto and Moncton. The Landlord, Cygnet Properties, operated the building as a rooming house. There were three tenants in separate units, including Mr. Thompson, who rents Unit #1. The rent is \$535.00.

On August 10, 2015, Lynda Mason, on behalf of the Landlord, e-mailed the Tenant that she was advised she can no longer use the room as a rooming house. The e-mails to that effect are in evidence. There were no reasons given at the time. I infer from the evidence that Mr. Thompson did not believe her at the time. The Landlord submitted a Notice to Comply issued by the Halifax Regional Municipality to cease the unauthorized use of operating a rooming or lodging house without a permit by March 21, 2016. The document is dated February 19, 2016. It cites several sections of the Land Use By-Law, but provides no particulars of fact as to how the violation has occurred.

Lynda Mason is the Property Manager for the Landlord, Cygnet Properties Ltd. She testified that when the Landlord received word from the Halifax Regional Municipality that they were allegedly in violation of the Land Use By-Law, she attempted to mediate the situation by offering Mr. Thompson the option of moving into a different address at 1128 Lucknow Street, but he was not prepared to move there or to Cygnet's premises on Morris Street. She contacted him later suggesting he and a roommate move to a larger apartment at their Seaforth Street residence on a temporary basis but he found those units unsuitable. He began hostile tenancy relationships with other tenants. At the same time, the Landlord attempted to raise the rent to \$550 per month, but Mr. Thompson has paid the old rate of \$535. There are also accusations against him for damaging the locks on the property. He was advised in writing that the rent would increase to \$1200 per month. Finally, he has placed boards across the door denying anyone access. As a result, he was given a Notice to Quit, which he has appealed.

Steven Thompson testified that he feels he has been constantly harassed and pursued since moving into the residence and perhaps, before. He described incidents with a co-tenant named Ken which occurred in July 2014 and others in August and September with a man named

Ahmed. Neither co-tenant lives there any longer. He described several incidents which if true, make it clear that the relationships between Mr. Thompson and his tenants were hostile and difficult. His e-mails to Ms. Mason are quite detailed. While it is not for this Court to find fault on the part of either co-tenant, it is clear it has been difficult for Mr. Thompson. He provided evidence suggesting he has not damaged the lock. Finally, he testified that the boards were placed on the doors to prevent access from outside. He also seeks compensation for repairing the faucet and sink which backed up. He has provided photographs of this backup. He is seeking an extension of his tenancy at the same rental rate until he can find a new residence.

The Law

Section 17D of the *Residential Tenancies Act* provides the following for an appeal to the Small Claims Court of a decision of the Director of Residential Tenancies:

“Within fourteen days of holding a hearing pursuant to subsection 17C(4), the Small Claims Court shall:

- (a) confirm, vary or rescind the order of the Director; or
- (b) make any order that the Director could have made.”

Section 10(8) of the Act provides as follows:

“(8) A landlord may give to the tenant notice to quit the residential premises where:...

- ...(e) the Director is satisfied that the tenant is in default of any of his obligations under this Act, the regulations or the lease;
- (f) the Director is satisfied that it is appropriate to make an order under Section 17A directing the landlord to be given possession at a time specified in the order, but not more than twelve months from the date of the order, where...
- (iii) the Director deems it appropriate in the circumstances.

Section 17A provides:

17A An order made by the Director may:...

- ...(e) terminate the tenancy on a date specified in the order and order the tenant to vacate the residential premises on that date;

In summary, an Adjudicator may make any order that a Director may make, including an order to vacate the premises if I consider it appropriate in the circumstances.

Findings

I find as a fact that the Landlord, Cygnet Properties, has been issued a Notice to Comply with Halifax Regional Municipality Land Use By-Law requiring it to cease operating 1130 Lucknow Street as a rooming house without a license for that purpose. It must do so by March 19, 2016. Further, I find Mr. Thompson was notified that he must vacate on August 10, 2015, but no clear reasons were given. In any event, the reasons behind the landlord’s desire for Mr. Thompson to move were not his fault. Given the nature of the allegations by the HRM, it is clear the Landlord is not without responsibility. That said, I find that the Landlord sought to make several compromises for him including a room at 1128 Lucknow Street, which is on the same property, their property on Morris Street which is not that far away and another on Seaforth. Further, I find as a fact that his refusal of any alternate premises is the primary reason for the Landlord’s desire to evict Mr. Thompson. They are circumstances not brought about by him.

I find Mr. Thompson experienced considerable difficulty with his co-tenants. I am prepared to give him the benefit of the doubt as to what happened. Having heard him testify in court about his belief that people are seeking to harm him, I can see how this has caused difficulty coping

with other tenants. Those episodes would cause difficulty and anger, however, I am not prepared to draw the same inferences as the landlord or the Residential Tenancies Officer.

I find the placing of boards across the doors of the rooming house could cause a serious risk of fire and safety issues. I find Mr. Thompson refuses to cease from doing so. This is a violation of Statutory Condition 8 of s. 9 of the *Residential Tenancies Act*, which states as follows:

“Entry Doors - Except by mutual consent, the landlord or the tenant shall not during occupancy by the tenant under the tenancy alter or cause to be altered the lock or locking system on any door that gives entry to the premises.”

A typical breach of this section occurs when a tenant changes a lock without the Landlord’s consent. Mr. Thompson described the situation as comparable to putting a chain lock or other device across the door. I find boards placed by a tenant to be similar to both examples and covered by this section. Furthermore, Mr. Thompson did not have the landlord’s consent.

Order

The situation between the Landlord and Tenant has deteriorated to the point where it cannot continue. I find it appropriate that the tenancy should cease. However, I am not prepared to order the tenancy to cease during the month of March as I feel that is not fair or sufficient time. Accordingly, he shall have a month from the date of this decision. Mr. Thompson shall vacate the premises at Unit #1, 1130 Lucknow Street by 11:59 pm on April 14, 2016.

Mr. Thompson shall be liable for rent for March 2016 for \$535.00 and \$249.67 to April 14, 2016.

I find the Landlord has not proven Mr. Thompson has caused the damage to the lock and dismiss this element of the claim. I also deny Mr. Thompson’s claim for repairs to the sink and plumbing as he has not proven he had the authority to make the repairs or that he had no alternative but to arrange the repairs on his own.

This is also an appropriate case for each party to bear their own costs. Thus, the Tenant shall not be responsible for the application fee of \$31.15

Conclusion

The appeal is allowed in part and the Order of the Director varied as follows:

I order the Tenant, Steven N. Thompson, to vacate the premises at Unit #1, 1130 Lucknow Street, Halifax, Nova Scotia by 11:59 p.m. on Thursday, April 14, 2016.

The Tenant shall be liable for rent of \$535.00 for March 2016 and \$249.67 for April 2016, up to April 14.

The claims by the Landlord for a rental increase and repairs to the lock are dismissed.

The claim by the Tenant for his repairs to the sink is dismissed.

Each party shall bear their own costs for this appeal and the application before the Director of Residential Tenancies, meaning Mr. Thompson is not responsible for the application fee of \$31.15.

An order shall be issued accordingly.

Dated at Halifax, NS,
on March 14, 2016;
Amended on April 21, 2016;

Gregg W. Knudsen, Adjudicator

Original: Court File
Copy: Landlord
Copy: Tenant(s)