



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

DECISION

Dispute Codes: CNC

Introduction

This application was brought by the tenant seeking to have set aside a Notice to End Tenancy for cause served on August 27, 2008 and setting an end of tenancy date of September 30, 2008.

Issue(s) to be Decided

This application requires a decision on whether the tenant has proven on the balance of probabilities that the Notice to End Tenancy should be set aside.

As a preliminary matter, a decision was required as to whether the applicant is, in fact, a tenant as her name does not appear on the rental agreement or the notice to end. The primary tenant vacated the rental unit on September 29, 2008.

However, the parties gave evidence that the applicant had resided with the primary tenant for over two years and the landlord stated that she had received regular rent payments on the applicant's behalf from the Ministry of Employment and Income Assistance. Accordingly, I found that the applicant is a tenant and the hearing proceeded.

In addition, while the landlord had submitted a number of letters from other tenants in support of the need for the notice to end, she had not provided that evidence to the applicant. Therefore, the hearing proceeded without consideration of that evidence.

Background and Evidence

During the hearing, the landlord gave evidence that the notice to end tenancy had followed a series of disturbances caused by the tenant, most recently and most seriously by way of loud domestic fighting.

The tenant and her advocate gave evidence that she had been subject to an abusive relationship that had now ended with the primary tenant having moved and his having been served with a restraining order. The parties further noted that there had been no such disturbances since the primary tenant had been removed from the rental unit and the notice to end tenancy had been served.

However, the landlord gave evidence that the primary tenant had caused no problems in the rental building until the applicant moved in with him.

She said that she had:

1. Received complaints of the applicant having sex in the laundry room and the locker room;
2. Been advised by police that the applicant was a sex trade worker;
3. Seen the applicant consume a delivery of liquid methadone in the lobby of the building;

4. Received numerous complaints of the applicant receiving callers for half-hour visits at late hours;
5. Received complaints of the applicant putting a stopper in the side door to allow visitors to come and without entering through the lobby;
6. Witnessed the primary tenant waiting in the car until the applicant told him it was appropriate for him to return to the apartment;
7. Received complaints of the tenant buying drugs in the common areas of the building;
8. Received complaints of the applicant intimidating other tenants when approached about her behaviour.

Analysis and Conclusion

I find, on the balance of probabilities, that the accumulation of these incidents warranted the Notice to End Tenancy. Therefore, I must decline to set it aside.

The landlord is at liberty to make application for an Order of Possession.

September 30, 2008
