



Dispute Resolution Services

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

Decision

Dispute Codes: CNC FF

Introduction

This hearing dealt with an application by the tenant to cancel the notice to end tenancy for cause.

Issue to be Decided

Whether the notice to end tenancy for cause should be cancelled?

Background and Evidence

The tenancy began on August 1, 2002. Rent in the amount of \$225.00 is payable in advance on the first of each month. Based on documents submitted by the parties, the following is a chronological background of the relevant events

- Since June of 2008, the tenants living below the tenant have been complaining about noise coming from the tenant's rental unit.
- Sometime in June, a mediated meeting with all parties concerned took place. During this meeting, the tenant said that she would stop her

children from playing ball, jumping off furniture and riding bicycles inside their rental unit.

- In a letter dated June 19, the landlord warned the tenant to abide by clause 8.5 of the tenancy agreement by not interfering with the quiet enjoyment of the other tenants.
- On July 14, the tenant hosed down her patio causing damage to the possessions of the downstairs tenants. The tenant apologized.
- On October 20, the landlord issued a second warning letter to the tenant citing further complaints of noise coming from the tenant's rental unit.
- On November 12, the landlord served the tenant with a notice to end tenancy for cause citing that the tenant has significantly interfered with or unreasonably disturbed another occupant; caused extraordinary damage to her rental unit; and breached a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.
- On November 20, a downstairs tenant attended the tenant's rental unit to complain about the noise. Tenant phoned the police accusing the downstairs tenant of harassment and intimidation.
- On November 26, the landlord conducted an inspection of the tenant's rental unit and took photographs of the damages in the unit.

Analysis

The landlord contended that the tenant and her children had caused so much noise as to have significantly interfered with or unreasonably disturbed the tenants who live directly below the tenant's rental unit. The landlord also contended that the tenant has caused extraordinary damages to her rental unit and breached a material term of the tenancy agreement and failed to rectify this breach after two written warnings. To support her claim, the landlord submitted documentation that included 1) a written complaint dated June 9 and a complaint log covering the period from June 12 to November 16 from the downstairs

tenants, 2) two written warnings from the landlord to the tenant dated June 19 and October 20, 3) and 15 photographs showing damages of the walls, cupboards and blinds in the tenant's rental unit.

The tenant said that she has X# children and one of them is a special needs child. She did not dispute that her children used to play ball, jump off furniture and ride the bicycles inside the rental unit. But, she maintained that since the landlord's warnings, she had enforced strict rules for the children to stop such activities. The tenant admitted to having caused the damages in her rental unit as shown in the photographs submitted by the landlord. But she disputed that these damages were significant and volunteered to pay for all of the costs in repairing them.

The preponderance of the evidence led me to the conclusion that the landlord had established grounds to end this tenancy. The complaint log from the downstairs tenants indicates that after the landlord's written warnings, the tenant's children continued their jumping, thumping, riding bicycles and bouncing balls. In particular, I note in this complaint log that on September 27, the tenant apologized for her son's rollerblading in the hallway of her rental unit. I have also reviewed the photographs showing the damages inside the tenant's rental unit which show multiple dents, holes, writing, scribbles, drawing on the walls throughout the rental unit, the damaged cupboards and blinds and I find them to be extensive and significant.

Based on all of the above, I dismiss the tenant's application.

Dated: December 08, 2008