



Dispute Resolution Services

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

DECISION

Dispute Codes: CNC, MT

Introduction

This hearing dealt with an application by the tenant seeking:

1. More time to make this application; and
2. To cancel a Notice to End Tenancy given for cause.

Both parties appeared at the date and time set for the hearing of this matter and gave evidence under oath.

Issues to be Decided

- Whether the tenant is entitled to more time to make this application;
- Whether the tenant is entitled to cancellation of the 1 month notice to end tenancy given for cause.

Analysis and Findings – Application for More Time

The tenant and landlord agreed that the tenant was served with the Notice to End Tenancy on December 28, 2008. The Notice states that the tenant has 10 days after receiving the Notice to dispute it. The tenant filed her Application to dispute the Notice on January 5, 2009. I therefore find that the tenant was within the proper time frame and more time to make this application is not necessary.

Background and Evidence

This tenancy began on July 15, 2008. The landlord submitted into evidence a copy of the 1 month notice dated December 15, 2008 effective January 31, 2009. It is this notice that is in dispute. The cause cited on the Notice is that:

Tenant or a person permitted on the property by the tenant has:



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- significantly interfered with or unreasonably disturbed another occupant or the landlord
- seriously jeopardized the health or safety or lawful right of another occupant or the landlord
- put the landlord's property at significant risk

The landlord gave evidence that there were many disturbances in the rental building that began in the tenant's rental unit. The landlord began receiving complaints of fighting, yelling, bashing of walls, swearing, loud noise, people coming and going at varying hours and violent guests coming to the tenant's rental unit. The landlord testified that she and other tenant's have called the police on at least 5 occasions to attend this tenant's rental unit to stop the violence. The manager submitted copies of written complaints sent to the tenant on October 27, 2008, October 31, 2008, November 21, 2008, November 25, 2008 and December 15, 2008. The manager also submitted letters written by other tenants complaining of noise and violence from this rental unit. The manager testified that despite the written complaints the noise and violence continues. The manager testified that other residents who work and have small children are not getting proper rest and are living in fear of this tenant's violent guests and behaviour. The manager testified that on one occasion she was in the rental unit with the tenant when a guest arrived and she was assaulted by the guest. The manager testified that assault charges have been laid.

The tenant says that the disturbances have been caused by an ex-friend who is a manic depressive who has been stalking her. The tenant says that in addition to assaulting the building manager this person assaulted her resulting in the tenant suffering broken ribs. The tenant says she now has a peace bond against this person and the person is currently in custody pending the outcome of the assault charges. The tenant says she is looking for a new place to live but she has liver cancer and it is difficult for her to move. The tenant submitted letters from her physicians to this effect.



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Findings Analysis

Section 47 of the *Act* addresses a landlord's notice given for cause. It says:

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

(i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property,

(ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant, or...

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

While the tenant says this conduct is not her fault and is as a result of a mentally ill “ex-friend” who is stalking her, I find that this does not mean that other tenants or the building manager must be required to contend with this disturbance or fear. While the tenant sites health issues as a reason she cannot move now, these concerns, while significant to her are not relevant to the issue I must decide. My task is to determine whether the landlord had cause to issue the Notice to End Tenancy. I find that the testimony given by the building manager was clear, credible and consistent. It is supported by the written complaints submitted to the tenant and the letters from other tenants in the building. I therefore find that:

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

(i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property,

(ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant, or...



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

Conclusion

The tenant's application to cancel the Notice to End Tenancy is dismissed. The effect of this decision is that this tenancy ended on the effective date set out on the Notice, that is January 31, 2009.