



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes OPC, OPB, MT, CNC

Introduction

This decision deals with two applications for Dispute Resolution, one brought by the tenant and one brought by the landlords. The landlord seeks an Order of Possession for cause and to seek an end to the tenancy because the tenant breached agreements with the landlord. The tenants have requested more time to file their application and request that the landlords' One Month Notice to End Tenancy is cancelled.

The landlord served the tenant on May 15, 2009, 2009 with a copy of the Application and Notice of Hearing. The landlord served the tenants with a One Month Notice to End tenancy on April 01 by posting this on the tenants door. The tenants had 10 days to file their application to dispute the landlords One Month Notice to End Tenancy. They filed their application on April 17, 2009. The tenants filed their application three days after the permitted date and could not demonstrate any exceptional circumstances why it was filed late. Therefore, their application to dispute the landlords One Month Notice is dismissed.

I find that the tenants were properly served pursuant to s. 89 of the *Act* with notice of this hearing. Both parties appeared, gave affirmed testimony, were provided the opportunity to present their evidence orally, in written form, documentary form, to cross-examine the other party and any witnesses and make submissions to me. On the basis of the solemnly affirmed evidence presented at the hearing I have determined:

Issues(s) to be Decided

- Is the Landlord entitled to an Order of Possession on the One Month Notice or will the tenancy continue?
- Has the tenant breached an agreement with the landlord?
- Whether the landlord is entitled to a Monetary Order to recover the filing fee?

Background and Evidence

This tenancy started on February 01, 2008. It is a month to month tenancy and rent is \$640.00 per month payable on the 1st of each month. The tenant paid a security deposit of \$320.00 on January 25, 2008. The landlord had previously applied for Dispute Resolution for an Early End to Tenancy and a hearing was held on March 16, 2009. This application was dismissed as the landlord was unable to prove his claim that an early end to the tenancy was warranted.

On April 01, 2009 the landlord issued the tenant with a One Month Notice to End Tenancy for cause. The landlord testifies that the tenants have an excessive amount of visitors to the rental unit who disturb the other tenants. The landlord engaged the services of a security firm to monitor the visitors and guests coming into the building and the tenant's rental unit. The report from the security guard details the times and gender of the visitors. On April 24, 2009 between the hours of 07.06 pm and 04.20 am there were 23 people visiting the rental unit. On April 25, 2009 the security guard noted that the tenants had no visitors. On April 26, 2009 between the hours of 06.21pm and 12.30 am the tenants had 11 visitors. The security guard attended on other occasions but did not note an excessive amount of visitors during these times.

The landlord claims that the tenant would let people into the building by the back and side doors and have given guests their keys so they can let themselves into the building. Other tenants living in the building have complained to the landlord about the tenants. Some of the other tenants have written letters detailing that they do not feel safe, people are knocking at all times of the day and night keeping the tenant awake. There is fighting and slamming doors into the wall. Another tenant has written about her concerns about the amount of people going to the tenants unit and not staying very long. They have come out of the unit and started fights and had loud arguments outside her door. She has stated that she has seen drug deals going on outside the building and has people buzzing her apartment at all times of the day and night asking to be let into the building.

The tenant testifies that the landlords' claims are unfounded. They state that they did not have a working phone buzzer so visitors could not be let into the building and testify that it must be the security guard who let people in. They dispute the landlords' claims that they had given their guests a key. The tenants state that on one occasion they dropped their keys from the balcony to a friend so he could let himself in by the back door. The tenant's claim that after the last hearing held in March, 2009 the landlord has been harassing them. The tenants state that they want to move out but need more time. The tenant dispute the security guards information about the amount of visitors entering the rental unit. They state that he must have let people into the building and they turned them away at the door.

The tenants witness testifies that his parents are being harassed by the landlord. He states that his parents have tried to prevent people coming into their unit. On one occasion two guests of his parents had a loud argument and his parents asked them to leave. He believes this is when the other tenant heard the argument and doors slamming into the walls. The witness disputes the security guards evidence as being

false. He relates a conversation with the guard who told him that only two visitors had come into the rental unit. The witness could not confirm which day this was but thinks it was on April 25. This is the day the security guard confirms in his report that no visitors entered the rental unit.

The landlords have provided a police crime number and testify that there is an investigation by the police concerning the tenants but as it is on-going they do not have any other information that can be relied upon as evidence of illegal activities.

The tenants testify that the police have searched their unit. They confirm the police were looking for drugs but did not find any. The tenants testify that the police are not taking any further action.

The landlord and tenant both confirm that after the last hearing they sat down together to discuss the issues still happening at the building. It was agreed that the tenant would look for somewhere else to live and the landlord offered to help the tenant and work together to resolve the problems. Since that time the landlord testifies that the tenant has continued to have an excessive amount of visitors. The tenant's visitors have been leaving doors open by putting rocks in them to prevent them closing. The landlord testifies that their other tenants have a right to a safe place to live and a right to quiet enjoyment of their rental units.

Analysis

The landlord has provided sufficient evidence of the excessive amount of visitors to the rental unit and the detrimental effect this has on the quiet enjoyment and security of the other tenants. The tenant has taken steps to reduce the amount of visitors to their unit.

However, it appears that these steps have not been successful to prevent a high volume of visitors gaining entry to the building at unsociable hours.

The evidence shows that an unreasonable amount of visitors have entered the building and rental unit. Some of the visitors have been ringing the door buzzers of other tenants to gain entry to the building throughout the night and early hours of the morning. This has significantly interfered with and unreasonable disturbed some of the other occupants of the building. The behaviour of the tenant's visitors has adversely affected some of the other tenants right to quiet enjoyment of their homes and their sense of security within their homes pursuant to s. 47(d)(i)

The tenants have failed to prove that the landlords' allegations are false. The written observations from the security guard and the testimony and documentary evidence from the landlord and other tenants show a significant risk to other occupants of the building. It is my belief through the evidence I have heard and seen that the high volume of traffic is consistent with disruptive behaviour.

The landlord has failed to provide evidence that illegal activities are taking place in and around the rental unit either by the tenants or their visitors. As there is insufficient evidence in this instance I dismiss this section of the landlord application stating the tenant has breached an agreement with the landlord. The addendum to the agreement is concerned with Crime Free Housing and as such no illegal activities have been proven to have taken place. However, the landlord has provided sufficient evidence to support the other grounds set out on the One Month Notice to End Tenancy for Cause dated April 01, 2009. Therefore, I uphold the landlords Notice to End Tenancy and grant an Order of Possession to the landlord.



Dispute Resolution Services

Page: 6

Residential Tenancy Branch
Ministry of Housing and Social Development

Conclusion

I hereby issue an Order of Possession in favour of the landlord effective two days after service on the tenant. This order must be served on the tenant and may be filed in the Supreme Court and enforced as an order of that Court.

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: May 27, 2009.

Dispute Resolution Officer