



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes CNC

Introduction

This matter dealt with an application by the Tenant to cancel a Notice to End Tenancy for Cause dated October 22, 2009.

Issues(s) to be Decided

1. Is the Landlord entitled to end the tenancy?

Background and Evidence

This month to month tenancy started on January 1, 2007. The Landlord served a One Month Notice on the Tenant on August 30, 2009, however in a hearing held on October 22, 2009, the Dispute Resolution Officer found that the tenancy had been reinstated by the Landlord subsequently accepting rent from the Tenant. Consequently, on October 22, 2009, the Landlord posted a One Month Notice to End Tenancy for Cause on the Tenant's door. The Notice alleged the following grounds:

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

- 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

On or about August 28, 2009, the Tenant's guest assaulted her in the rental unit. The Tenant asked another tenant in the rental property if she could use her telephone to contact the police and at that time, the Tenant's guest threatened the other tenant. The Tenant's guest was arrested and charged by the Police. On August 31, 2009, a "no contact" order was issued by the Provincial Court preventing the Tenant's guest from having contact with her.

The Landlord argued that the Tenant had a history of bringing undesirable people to the rental property when she was using alcohol. The Landlord provided witness statements from 3 other tenants in the rental property who claimed to have personal knowledge of the events of August 28, 2009. One tenant also claimed that there had been previous

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(but unspecified) complaints about the Tenant that should have been followed up on. One of the Landlord's agents also claimed to have personal knowledge of previous incidents involving the Tenant but did not provide any particulars of them. The Landlord also claimed that there had been numerous complaints from other tenants but they did not want to provide written statements.

The Tenant argued that she acted responsibly in contacting the Police on August 28, 2009 to have her guest removed from the rental property. The Tenant claimed that the police removed her guest at approximately 10:00 pm and therefore she argued that the statement of one of the Landlord's witnesses who claimed her guest was making a disturbance the following morning was unreliable. The Tenant also argued that there was no evidence of any previous incidents involving her as alleged by the Landlord.

The Tenant provided two witness statements one of which indicated that it was from another tenant of the rental property. Both deponents stated that they had known the Tenant for approximately 4 years and had never had problems with her.

Analysis

Not every breach of a tenancy agreement or the Act will entitle the Landlord to end the tenancy. Unless there is a single occurrence that is so severe that it warrants an immediate end to the tenancy, fairness requires that a landlord give a tenant notice that the conduct in question is in violation of the tenancy agreement or Act together with a written warning that a repeat of the behaviour in question will result in the tenancy being terminated.

The Landlord argued however, that the Tenant had not exercised good judgement throughout the tenancy because she brought undesirable people on the rental property when she was drinking. In this case, there was no reliable evidence of any previous incidents whereby the Tenant unreasonably disturbed other tenants or jeopardized their health or safety or put the Landlord's property at significant risk. Consequently, the issue is whether the incident on August 28, 2009 was so severe that it warranted eviction.

I find no evidence that the Tenant knew or should have known that her guest would assault her or threaten another tenant in the rental property. Furthermore, the Landlord admitted that the Tenant acted responsibly on August 28, 2009 in calling the Police and obtaining a "no contact" order against her guest. For these reasons, I find that there is insufficient evidence in support of the One Month Notice to End Tenancy for Cause dated October 22, 2009 and it is cancelled.



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However, the Tenant now has written notice that should a guest of hers unreasonably disturb or jeopardize the safety of other tenants in the rental property in the future, her tenancy may be in jeopardy.

Conclusion

The Tenant's application is granted. The One Month Notice to End Tenancy for Cause dated October 22, 2009 is cancelled and the tenancy will continue.

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: November 04, 2009.

Dispute Resolution Officer