

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with an Application for Dispute Resolution by the Tenant to obtain an Order to cancel a notice to end tenancy issued for cause.

Service of the hearing documents, by the Tenant to the Landlord, was done in accordance with section 89 of the *Act*, served personally by the Tenant's Agent to the Landlord on approximately January 8, 2010. The Landlord confirmed receipt of the Tenant's application.

The Landlord, the Building Manager, the Security Person, the Tenant and the Tenant's Agent appeared, acknowledged receipt of evidence submitted by the other, gave affirmed testimony, were provided the opportunity to present their evidence orally, in writing, and in documentary form.

Issues(s) to be Decided

Is the Tenant entitled to an Order to cancel a 1 Month Notice to End Tenancy issued for Cause under section 47 of the *Residential Tenancy Act*?

Background and Evidence

The fixed term tenancy agreement began on February 1, 2009 and switched over to a month to month tenancy after January 31, 2010. Rent is payable on the first of each month in the amount of \$400.00 and the Tenant paid a security deposit of \$200.00 on January 21, 2009.

The Landlord testified and referred to his documentary evidence in support that the Tenant has significantly interfered with or unreasonable disturbed another occupant or the landlord and has adversely affected the quiet enjoyment, security, and safety of another occupant or the Landlord.

The Landlord argued that the Tenant has been known to get drunk and then cause loud noises which disrupt the other tenants. A warning letter was issued to the Tenant on August 24, 2009 relating to the Tenant's breach on August 22, 2009 for causing loud noises and a disturbance.

The Landlord confirmed that he had a change in staff in August 2009 and they did not manage the Tenant's continued noise, as maybe they could have, which brought them to the incidents on December 24, 2009 and December 25, 2009 where the Tenant was partying with another tenant. This partying was so disrupting that the Landlord staff called the police who attended at 3:15 a.m. the morning of December 25, 2009. The Landlord referred to the Office Log Book whereby the office attendant recorded that he had been threatened, again by the Tenant, which ultimately resulted in the Office Attendant quitting his employment with the Landlord later that day.

A 1 Month Notice to End Tenancy was issued and served personally to the Tenant on December 28, 2009 by the Building Manager. The Building Manager attended hearing and testified to the service of the Notice and confirmed that the Tenant continued to party and disrupt the other tenants after this notice was issued. The Tenant was issued receipts for "use and occupancy only" after the Notice to End Tenancy was issued.

The Landlord advised that the Tenant was issued a second warning letter on January 4, 2010 for another noise breach which occurred on January 1, 2010 and it was noted in that letter that the Tenant's actions were deemed to be "verbally threatening".

The Security Person testified that there was another incident on February 11, 2010 at 12:30 a.m. whereby he was called to the Tenant's girlfriend's room where the Tenant was found drunk and fighting with his girlfriend which was disrupting the neighbours.

The Tenant testified and admitted that he does get drinking and partying and that for the most part the previous testimony does reflect what has been going on. The Tenant argued that he did not threaten the office attendant on Christmas Eve or Christmas Day however he did go and say things to him that may been considered "out of line".

When asked if he was issued a letter about his noise complaints in August 2009 or January 2010 the Tenant stated that he did not remember however the Tenant did confirm that he became drunk, at the rental building, on New Year's Eve and again on February 11, 2010, after being issued the 1 Month Notice to End Tenancy.

The Tenant argued that many things have changed in his life that will allow him to become a better Tenant, first his girlfriend is not disputing her Notice and is moving out of the rental building and second he has started back to work so his patterns have changed and he will not be drinking as much.

The Landlord testified that he is not willing to allow this tenancy to continue and he has attended the hearing to dispute the Tenant's application and to request an Order of Possession for as soon as possible.

Analysis

Upon review of the 1 Month Notice to End Tenancy issued on December 28, 2009, I find the Notice to be completed in accordance with the requirements of section 47 of the Act and I find that it was served upon the Tenant in a manner that complies with the Act. Upon consideration of all the evidence presented to me, I find the Landlord had valid reasons for issuing the Notice; therefore I hereby dismiss the Tenant's application to request an Order to cancel the Notice.

Section 55 of the Act provides that an Order of Possession must be provided to a Landlord if a Tenant's request to dispute a Notice to End Tenancy is dismissed and the Landlord makes an oral request for an Order of Possession during the scheduled hearing. Based on the aforementioned I hereby approve the Landlord's request for an Order of Possession.

Conclusion

I HEREBY FIND that the Landlord is entitled to an Order of Possession effective **two days after service on the Tenant**. This order must be served on the Respondent 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: February 16, 2010.

Dispute Resolution Officer