

DECISION

Dispute Codes:

CNC

Introduction

Both parties were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained, evidence was reviewed and the parties were provided with an opportunity to ask questions about the hearing process. They were provided with the opportunity to submit documentary evidence prior to this hearing, all of which has been reviewed, to present affirmed oral testimony and to make submissions during the hearing

Issue(s) to be Decided

Should the 1 Month Notice ending tenancy for cause issued on April 19, 2010, be cancelled?

Background and Evidence

The landlord and the tenant agree that a 1 Month Notice to End Tenancy for Cause was served on the tenant indicating that the tenant was required to vacate the rental unit on May 31, 2010.

The reasons stated for the Notice to End Tenancy were that the tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord.

The landlord presented the following evidence and arguments to support the Notice to End Tenancy for Cause:

- On April 13, 10 and 16, 2010, email reports were made by a three year occupant who lives below the rental unit (201) of disturbances such as loud parties into the night and police attendance at the unit;
- An April 16, 2010, a written report was issued by a very long-term occupant complaining of noise from the unit and beer cans being thrown off the tenant's balcony;
- On April 16, 2010, a notice issued to the tenant, by posting to her door, that the reports of loud noise, which is disturbing other occupants will not be tolerated and that if a further complaint is made the a Notice ending tenancy would be issued;

- Email report of further disturbances made by an occupant (201) on April 17, 19 and May 19, 20, and 27, 2010, complaining of further disturbances and police attendance due to a fight outside of the tenant's rental unit;
- A written report from another occupant (301), who has lived in the building for 4 months, concerned about the continual police visits to 301 and that he does not feel the building is safe.

At the end of the hearing the landlord requested an Order of possession.

The tenant presented the following evidence and arguments in support the application to cancel the Notice to End Tenancy for Cause:

- That after receiving the April 16, 2010, warning letter she called the landlord;
- That the beer cans fell from the balcony due to the wind and that she picked them up;
- That after the warning letter she "tried to keep things down;"
- That she has a partial hearing problem and that her TV may be loud; and
- That the fight occurred because tenants from down the hall came to her door.

Analysis

After considering all of the written and oral evidence submitted at this hearing, I find that the landlord has provided sufficient evidence to show that the tenant has significantly interfered with or unreasonably disturbed another occupant. In reaching this conclusion I considered the following factors:

- The other occupants right to quiet enjoyment of their rental units as provided by section 28 of the Act;
- That 3 other occupants have made independent complaints in relation to on-going noise and disturbances;
- That the disturbances continued after the warning was issued to the tenant on April 16 and after the Notice was issued to the tenant on April 19, 2010; and
- That the tenant offered no reasonable response to the complaints or any evidence that she or her guests are not disturbing other occupants.

Even if other occupants had come to the tenants door and caused a disturbance on one occasion, I find that the multiple complaints, combined with the written warning to the tenant has resulted in other occupants having been unreasonable disturbed. Therefore, I find that the Notice ending the tenancy effective May 31, 2010, is of full force and effect.

I have dismissed the tenant's Application to cancel the Notice. As the landlord requested an Order of possession, I find that the landlord is entitled to an Order of possession effective 2 days after service to the tenant. I base this decision on section 55(1) of the Act, which provides:

55 (1) *If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, **the director must grant an order of possession** of the rental unit to the landlord if, at the time scheduled for the hearing,*

(a) the landlord makes an oral request for an order of possession, and

(b) the director dismisses the tenant's application or upholds the landlord's notice.

(Emphasis added)

Conclusion

I have determined that the landlord has submitted sufficient evidence to establish that they have grounds to end this tenancy pursuant to section 47 of the Act.

Pursuant to section 55(1) of the Act, I have issued the landlord an Order of possession, effective 2 days after service to the tenant.

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: June 09, 2010.

Dispute Resolution Officer