

DECISION

Dispute Codes CNC, FF

Introduction

Some documentary evidence and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties and their witnesses the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties and the witnesses.

All testimony was taken under affirmation.

Issues(s) to be Decided

This is a request to have a section 47 Notice to End Tenancy cancelled and a request of the respondent bear the \$50.00 cost of the filing fee which the applicant paid for the application for dispute resolution.

Background and Evidence

On May 27, 2010 applicant was served with a section 47 Notice to End Tenancy.

The landlord testified that:

- On March 6, 2010 there was loud noise, loud music, the smell of marijuana, and loud fighting coming from the tenant's rental unit, and the noise continued until 3 in the morning.
- On March 10, 2010 the landlord served the tenant with a breach letter, morning the tenant did this behaviour would not be tolerated and that any further disturbances would result in a Notice to End Tenancy.

- May 17, 2010 they got another complaint of loud noise and fighting coming from this rental unit.
- May 25, 2010 they got a complaint that there had been loud noise coming from this apartment for a two week period.
- June 4, 8, & 10th they got three more complaints of noise and loud music.
- June 29, 2010 they again got complaints from other tenants about loud noise coming from this rental unit.
- Prior to these tenants moving in they had no complaints of noise from any of the other rental units or neighbouring properties.

The landlords therefore requested the Notice to End Tenancy be upheld and that this tenancy ends with an Order of Possession being issued.

The tenant testified that:

- She admits that there was a loud party on March 6/7th they went on quite late into the night however there was no marijuana being smoked.
- She did get the landlord breach letter however since receiving the letter there has been no loud noise or marijuana smoking in her rental unit.
- When she has received complaints about loud noise she is gone to her window and it is her belief that this noise is coming from the neighbouring properties behind her rental unit.
- They may drinking the odd beer and cheered loudly during a sporting event on TV however, ongoing noise and other people in the building do the same.

The tenant therefore believes that this Notice to End Tenancy should be cancelled and that the tenancy should continue

Analysis

It is my decision that the landlords have shown “on the balance of probabilities” that the tenant or her invited guests have been unreasonably disturbing the other occupants of the rental property.

The tenant claims that the noise is coming from an adjoining property, however I find it very unlikely that so many complaints could be filed and that every one of them would be mistaken about where the noise was coming from.

It is also my decision that due to the frequency of the complaints and the ongoing nature of the problem that it would be unreasonable to allow this tenancy to continue.

Therefore I will not set aside the Notice to End Tenancy and will be issuing an Order of Possession to the landlord.

Conclusion

This application is dismissed in full without leave to reapply, and I have issued an Order of Possession to the landlord's for 1 p.m. on July the 31st 2010.

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: July 14, 2010.

Dispute Resolution Officer