



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes CNC, FF

Introduction

This hearing dealt with the tenant's Application for Dispute Resolution to cancel a notice to end tenancy.

The hearing was conducted via teleconference and was attended by the tenant and the landlord's agent and building manager.

Issues(s) to be Decided

The issues to be decided are whether the tenant is entitled to cancel a 1 Month Notice to End Tenancy for Cause and to recover the filing fee from the landlord for the cost of the Application for Dispute Resolution, pursuant to sections 47, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The tenancy began on May 1, 2009 as a month to month tenancy for a current monthly rent of \$903.00 due on the 1st of the month, a security deposit of \$437.50 was paid on April 16, 2009.

The landlord issued a 1 Month Notice to End Tenancy for Causing dated July 16, 2010 with an effective date of August 31, 2010 citing 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 notice was served personally on July 16, 2010 by the building manager.

The landlord testified that since the beginning of the tenancy there have been repeated disturbances from this rental unit and that on each occasion that landlord issued a warning letter to the tenant advising that continued disturbances and breaches of the tenancy agreement may result in the ending of the tenancy. The tenant acknowledges receipt of these warnings.

The tenant testified that she was not at fault for the disturbances, particularly any disturbances in July or August 2010. She further noted that she is being singled out only as a result of racism and that it is other tenants causing the disturbances. The tenant testified that she is only making everyday living noises and that she works late and does not get home until 10:00 p.m. daily so she is active in her home until into the early morning hours.

The landlord further testified that the tenant had originally rented to the unit to the tenant and she would be living with her teenaged nephew but that she had asked to have the locks changed as she had indicated she had kicked out her nephew and she did not want him to have access.

The landlord contends that they have since seen the nephew on the residential property on a number of occasions and that the tenant now has another woman living with her that were not made aware of. The tenant states the woman has just started staying with but because she had already received a notice to end the tenancy she did not think she had to add this other person to the agreement.

Analysis

Section 47 of the *Act* allows a landlord to end a tenancy if the tenant or a person permitted on the residential property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property.

I accept the landlord's testimony that is confirmed by the tenant that there have been issues through the tenancy for which the tenant was issued warning letters. I therefore find the tenant was aware of the potential for disturbances and the consequences should she not heed the warning letters.

The onus in an application to dispute a notice to end tenancy is on the applicant to provide sufficient evidence to show that the cause suggested by the landlord to end the tenancy is not sufficient to meet the threshold required by the legislation.

While I accept the tenant does not get home until late in the evening and as a result her daily usage of her rental unit is not necessarily aligned, time wise, with her neighbour tenants this does not relieve her of her obligations to not disturb her neighbours.

Despite the tenant's testimony she has provided no supporting evidence or witness testimony to corroborate that these events were caused by others who are racially motivated against her or that they were only everyday living noises.

The landlord did not request an order of possession during the hearing.

Conclusion

Based on my findings above, I find the 1 Month Notice to End Tenancy for Cause is of full force and effect. I therefore dismiss the tenant's application, in its entirety.

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: September 09, 2010.

Dispute Resolution Officer