



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes CNC

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 the witness the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties and the witness.

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.

Background and Evidence

The landlords testified:

- The tenants have been causing numerous noise disturbances late at night.
- They have been giving numerous warnings about the noise disturbances and yet they are ongoing.
- The police have been called three times to the suite and this is becoming too disruptive for the other tenants in the rental property.
- They have had numerous complaints from other tenants, however most are unwilling to come forward due to fear of reprisals. The resident manager however as also been disturbed by the loud noise from the tenant's apartment on numerous occasions.

- An incomplete list of the disturbances is as follows:
 - August 23, 2010 - 11:15 p.m., 12:30 a.m., and 2:15 a.m.
 - October 1, 2010 - 11:45 p.m.
 - October 16, 2010 - police arrived in the middle of the night
 - October 22, 2010 - 10:30 p.m.
 - November 5, 2010- 11:30 p.m., 1 a.m., 2 a.m., and 3:30 a.m.

These ongoing disturbances are unreasonably disturbing the other occupants of the rental property and therefore they are requesting an end to this tenancy and that the Notice to End Tenancy be upheld.

The tenant testified that:

- The police have come to a rental unit on three occasions but never due to a noise complaint.
- He has only had two noise complaints and both were from the resident manager.
- They have not been making excessive noise especially at night.
- They have let a friend into their unit who caused excessive noise however he arrived at their door drunk and they were not going to leave him outside and thereby cause a dispute, therefore they invited him in.

The tenant's daughter testified that:

- The only complaints they had about noise were from the resident manager who lives above them and complained about stomping on the floor.
- They do not make excessive noise, and the police were never called due to noise.



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Analysis

It is my decision that the landlords have shown “on the balance of probabilities” that the tenants of this rental unit have been causing excessive noise.

The resident manager lives directly above the tenants and has testified that he has been woken up on numerous occasions due to the excessive noise coming from the tenant suite.

The tenants deny causing excessive noise however they admit allowing an intoxicated friend into the rental unit who cause excessive noise but seem to believe that is not their responsibility. Tenants are responsible for the actions of their invited guests, and since the tenants admitted that they invited this person into the rental unit, they are therefore liable for any disturbance he may cause.

Therefore it is my decision that I will not set aside the Notice to End Tenancy and this tenancy ends pursuant to that notice.

Conclusion

This application is dismissed in full without leave to reapply and I have issued an Order of Possession to the landlords for 1 p.m. on November the 30th 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: November 26, 2010.

Dispute Resolution Officer