



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 have 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.

Background and Evidence

The landlord and landlord's witnesses testified that:

- The tenant has become verbally aggressive towards other tenants in the rental unit.
- The other tenants have had to endure frequent criticism, verbal abuse, and insults on a daily basis and sometimes twice a day.
- The co-tenant testified that she has tried to ignore the abuse hoping it would stop however it still ongoing.

The landlord is therefore requesting that the Notice to End Tenancy be upheld and this tenancy be ended.

The tenant testified that:

- She is living with two tenants with mental health issues and finds them very difficult to deal with.
- The main issue has been over the length of time the television is left on in the common area. It's only supposed to be on for a certain length of time however the other tenants keep it on all the time.
- She has tried to deal with the other tenants however they ignore her and go and tattletale to the house manager next door.
- When they totally ignore me I get very frustrated and I have, on occasion, lost my temper and become somewhat verbally aggressive.
- I am not in general an aggressive or abusive person and any aggressiveness was simply due to the frustration of having to deal with mental health patients while trying to stick up for my rights.

Witnesses for the tenant testified that:

- The tenant is not an aggressive or abusive person, and is in fact very caring towards the other tenants in the rental unit.
- The tenant has had a loss of use of enjoyment due to the TV being on constantly, and the male witness did state that the tenant has been upset and as a result became somewhat verbally aggressive towards the other tenants out of frustration.

The tenant is requesting that this Notice to End Tenancy be cancelled and that the tenancy continues.

Analysis

It is my decision that the landlords have not met the burden of proving their reasons for ending this tenancy.

The Notice to End Tenancy stated that the tenants or person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or



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the landlord; seriously jeopardize the health or safety or lawful right of another occupant or the landlord.

In this case the landlords are claiming that the tenant has become verbally abusive towards the other occupants of the rental property however it is my decision that they have not met the burden of proving that claim.

The landlords have not directly witnessed the alleged abuse, but had received complaints of the abuse from another tenant however it is basically just that tenants word against the word of the applicant and the applicant claims that she has not been abusive, she has simply aggressively stood up for her rights in the rental agreement.

The burden of proving the reasons for ending a tenancy lies with the landlord and when it is just one tenants word against that of the others that is not sufficient to meet that burden of proof.

Therefore the landlords have not established sufficient grounds for ending this tenancy.

Conclusion

The section 47 Notice to End Tenancy dated October 22, 2010, is hereby cancelled and this tenancy continues.

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 29, 2010.

Dispute Resolution Officer