



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. The tenant is seeking to cancel a Notice to End Tenancy.

The hearing was conducted via teleconference and was attended by the tenant, his witness and the landlord

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 in August 2009 as a month to month tenancy for a monthly rental amount of \$835.00 due on the 1st of the month. A security deposit of \$417.50 and a pet damage deposit of \$417.50 were paid in August 2009.

Both parties submitted a copy of a 10 Day Notice for Unpaid Rent issued by the landlord on October 5, 2010 for unpaid rent in the amount of \$855.00 due on October 1, 2010. During the hearing the parties confirmed the tenant had paid this rent and the matter was resolved.

Neither party provided a copy of the 1 Month Notice to End Tenancy for Cause but the landlord testified that he issued this Notice on September 28, 2010 with an effective date of October 31, 2010 citing 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 further testified he served this notice on the tenant on September 28, 2010 personally. The tenant did not dispute this service or the content of the Notice itself.

The landlord submitted several incident reports filed against the tenant that included noise problems such as loud barking and howling; items being thrown over the balcony;

complaints of not feeling safe with the tenant's dog in the building and some letters of complaint received by the landlord from a tenant regarding noise from the tenant's rental unit.

The landlord testified that he doesn't have any problems with the tenant's dog but that some tenants have complained because the dog lunges for them but the landlord believes it is because the dog is being friendly. The landlord provided no testimony that the dog had harmed anyone in the residential property.

The landlord also included several "breach letters", the mechanism used by the landlord to inform tenants that they have breached their tenancy agreement and may face an end to the tenancy if the breaches continue, throughout the tenancy for noise at 3:00 a.m.; loud noises; and loud music.

In his testimony the landlord also noted that on October 18, 2010 the police were called to the tenant's rental unit resulting from a noise complaint. The tenant noted that he did not know why the police had attended his home other than the walls are thin and he can't seem to do anything without someone lodging a complaint.

The tenant contends that he does play music loud or party in his rental unit but that he only talks with friends when they are over visiting and that he smokes out on the balcony.

The landlord states that the tenant is normally a nice person but that he occasionally has guests over and they drink together and become loud late into the night. The landlord stated there have been occasions that the tenant has been on his balcony at 3:00 a.m. with friends shouting and making noise.

Analysis

Section 47 of the *Act* states a landlord may 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.

The landlord has a responsibility to ensure all the tenants in the residential property have access to quiet enjoyment in their rental units and as such has an obligation to deal with complaints raised by other tenants regarding noise infractions or other interference to all tenants.

In relation to the tenant's complaints regarding the interference by the tenant's dog, I find the landlord has indicated that the dog has not presented a problem other than tenants are scared of it because it seeks affection and tries to jump on them. Based on the landlord's testimony and the fact the landlord has not issued any breach letters to the tenant regarding the dog, I find the landlord has no cause related to the dog complaints to end the tenancy.

However, based on the evidence before me of at least three breach letters warning the tenant of noise infractions and the tenants insistence that he isn't doing anything wrong and has not adapted his behaviour to be quieter, even after receiving the Notice to End Tenancy resulting in the police attending the property, I find the landlord has established that the tenant is significantly disturbing other tenants and has sufficient cause to end the tenancy, in accordance with Section 47.

Conclusion

Based on the above, I 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: November 04, 2010.

Dispute Resolution Officer