



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes: CNC

Introduction

This hearing dealt with an application by the tenant for an order to set aside a notice to end tenancy. Both parties attended the hearing and had opportunity to be heard.

Issue to be Decided

Does the landlord have grounds to end this tenancy?

Background and Evidence

The tenancy began on February 01, 2008. On November 04, 2010, the landlord served the tenant with a one month notice to end tenancy for cause.

The notice to end tenancy alleges that the tenant has allowed an unreasonable number of occupants in the unit and that the tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant.

The notice also alleges that the tenant has engaged in illegal activity that has adversely affected the quiet enjoyment, security, safety or physical well-being of another occupant.

The landlord stated that the tenant entertains visitors in large number during the day. These visitors indulge in heavy drinking and disturb the neighbours with loud music and swearing. The landlord stated that she had received several complaints from the other occupants about the disturbances caused by the tenant's visitors. Some occupants expressed fear for their safety. The landlord also stated that the tenant smokes marijuana inside the rental unit.

The landlord served the tenant with two warning letters dated May 27, 2009 and August 19, 2009. These letters address the noise issues and the smoking of marijuana.

On November 04, the landlord received some more complaints and served the tenant with a notice to end tenancy for cause. The landlord did not file any evidence to support her case. Copies of the warning letters were filed by the tenant.

The tenant stated that he does have visitors every other Wednesday, but these guests visit around midday and leave by 4 p. m. The tenant stated that he is in bed by 9 p.m. and therefore disputed the landlord's claim that he and/or his guests cause disturbances. He admitted that he smokes marijuana twice a day for medicinal reasons and plans to get a permit. The tenant also agreed that he and his guests enjoy alcoholic beverages and may get loud, but this is during the day and also only twice a month. The tenant stated that he would see that these disturbances did not occur from now on.

Analysis

In order to support the notice to end tenancy, the landlord must prove at least one of the grounds alleged, namely that the tenant has allowed an unreasonable number of occupants in the unit, has significantly interfered with or unreasonably disturbed another occupant and/or has engaged in illegal activity that has adversely affected the quiet enjoyment, security, safety or physical well-being of another occupant.

Based on all the evidence before me, I find that the landlord did not file any evidence to support her case. She stated that she had received verbal complaints from other occupants and had only one written complaint that she did not file. She has also served the tenant two warning letters in almost three years of tenancy prior to serving the notice to end tenancy.

I accept that the tenant and/or his guests created some noise disturbances during the day, but I am not satisfied that the actions of the tenant justify bringing this tenancy to an end. Since the landlord did not file any evidence to support her notice to end tenancy and has served the tenant with only two warning letters in almost three years, it appears that these incidents were isolated and not an ongoing pattern of behaviour for this tenant.

I therefore allow the tenant's application and set aside the landlord's Notice to End Tenancy dated November 04, 2010. As a result, the tenancy shall continue in accordance with its original terms.

The tenant would be wise to refrain from giving other occupants of the residential complex, reason to complain. I find it timely to put the tenant on notice that, if such behaviours were to occur again in the future and another notice to end tenancy issued, the record of these events would form part of the landlord's case should it again come before a dispute resolution officer, for consideration.

Conclusion

The notice to end tenancy is set aside and the tenancy will continue.

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: December 06, 2010.

Dispute Resolution Officer