

DECISION

Dispute Codes CNC, FF

Introduction

This hearing dealt with an application by the tenant to cancel a 1 month notice to end tenancy for cause and recovery of the filing fee. Both parties participated in the conference call hearing.

Issues to be Decided

Is the tenant entitled to any of the above under the Act.

Summary of Background and Evidence

This tenancy started April 1, 1993 with rent of \$700.00, the tenant paid a security deposit of \$350.00. On January 6, 2011 the landlord served the tenant with a 1 Month Notice to End Tenancy for Cause: significantly interfered with or unreasonably disturbed another occupant or the landlord; seriously jeopardized the health or safety or lawful right of another occupant or the landlord; put the landlord's property at significant risk.

The landlord's agent testified that the tenant significantly interfered with, unreasonably disturbed and jeopardized both the other tenants in the building and the landlord when the tenants caused a domestic disturbance requiring the police to attend the building on 3 separate occasions between January 3rd and January 16th. The landlord's agent stated that some tenants in the building are now afraid and apprehensive as they are unsure as to whether or not there will be another incident that requires police involvement. The landlord's agent stated that the tenants have disturbed the peace and quiet of the other tenants in the building through their actions.

The tenant RC testified that he was going through a very bad time in late December, early January and in the 18 years he and the tenant WH have been together, they have never had any prior domestic disturbances. RC stated that he is not staying in the apartment at this time and is respectfully giving WH space for the next few months while they mend their relationship.

RC stated that on January 3, 2011 he was extremely upset, became very abusive on the phone to WH, told WH that he would 'go crazy' and threatened to wreck the apartment. This phone call to WH resulted in the police being called to attend and the police responded with an emergency response team and police dog due to RC's CPIC status as he is noted in CIPIC as a violent offender from an event that took place 30 years ago. This incident was quickly diffused when the landlord's agent advised the

police that RC was in fact a tenant as the police had been informed that RC was not a tenant and that he was breaking into the apartment.

The tenant WH stated that this was an isolated incident in the 18 years she and RC have been together and that she simply wanted her peace and quiet back. WH stated that she has lived in the building since 1993 and that she has never had any problems with her tenancy. WH and RC met at the apartment and attended today's hearing together at their advocate's office.

Analysis

Based on the documentary evidence and testimony before me, I am not satisfied that the landlord has proved its case. I accept that the tenants behaved badly on the dates in question, but I am not satisfied that the actions of the tenants on January 3, 5 and 16 justify bringing the tenancy to an end. I note that this is an eighteen year tenancy and it appears from the evidence that the events of January 3, 5 and 16 were isolated and not an on-going pattern of behaviour for these tenants. Clearly, 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.

I find that there is insufficient evidence to uphold the Notice to End Tenancy for Cause. Accordingly, the notice to end tenancy is hereby set aside and the tenancy continues in full force and effect.

The tenant is entitled to recovery of the \$50.00 filing fee.

Conclusion

I therefore allow the tenant's application and set aside the landlord's Notice to End Tenancy for Cause dated January 6, 2011 with the result that the tenancy continues uninterrupted.

The tenant may deduct \$50.00 from future rent owed to the landlord for recover of the filing fee paid to bring their application.

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: January 26, 2011

Residential Tenancy Branch