



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes CNC & FF

Introduction

This hearing dealt with the tenant's application seeking to have a 1 Month Notice to End Tenancy for Cause set aside. Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross examine the other party, and make submissions to me.

Issue(s) to be Decided

Has the landlord demonstrated that the tenants significantly interfered with or unreasonably disturbed another occupant or the landlord, entitling the landlord to end the tenancy?

Background and Evidence

This tenancy began on September 1, 2010 for the monthly rent of \$660.00 and a \$330.00 security deposit paid by the tenants on August 13, 2010.

On December 14, 2010 the landlord served the tenants with a 1 Month Notice to End Tenancy for Cause by posting it on the door of the rental unit. The landlord indicated that she was not the resident manager and could only speak to matters as documented on the landlord's file. According to the landlord's records there have been numerous complaints received that the tenants disturb other occupants by fighting and yelling at all hours. The landlord also stated that the police have been called to the rental unit on a number of occasions.

The tenants deny the allegations of the landlord and submitted that all the problems dealt with the former resident manager who has fired as a result of his actions and behaviours. The tenants submitted that there were personality issues between the former resident manager and the tenants which caused significant stress. Due to the circumstances, the tenants stated that they have decided to vacate the rental unit as of January 31, 2011.

The landlord accepted the end of the tenancy effective January 31, 2011 and has requested that the tenants provide their notice in writing.

Analysis

The tenant's application is granted and I set aside the 1 Month Notice to End Tenancy for Cause. The landlord has the burden of proving on the balance of probabilities that there were sufficient grounds to end this tenancy. The landlord only provided oral testimony which the tenants disputed and this is not sufficient to uphold the notice.

The tenants have elected the end the tenancy as of January 31, 2010 despite the notice being cancelled and the landlord has mutually agreed to the end the tenancy on this date. By virtue of this agreement I find that the tenant is not required to give 30 days notice to end this tenancy.

Conclusion

The tenant's application has been granted and the 1 month Notice to End Tenancy has been set aside. However, even though the notice has been set aside, the parties have mutually agreed to end this tenancy on January 31, 2011.

I deny the tenants' request to recover the \$50.00 filing fee paid for this application, since the hearing process was not necessary because the tenants decided to end the tenancy.

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 19, 2011.

Residential Tenancy Branch