



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes CNC

Introduction

This hearing was convened in response to an application by the Tenant pursuant to the *Residential Tenancy Act* (the “Act”) for an Order to cancel a One Month Notice to End Tenancy for Cause (the “Notice”), dated February 21, 2011 with an effective date of March 31, 2011. There is no dispute that the reason stated on the Notice is that the Tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord.

Both, the Tenant and the Landlord participated in the hearing and were given full opportunity to be heard, make arguments and ask questions.

Issue(s) to be Decided

Whether the reason for the Notice is valid.

Background and Evidence

The tenancy started on June 28, 2010. The Tenants live in one unit in a multi-unit building. New landlords and building management took over the building in approximately August 2011. The building manager states that over several months since that time, complaints have been received by other tenants about disturbances from Tenant A. The manager provided 3 letters from anonymous tenants as evidence of reason for the Notice as follows:

- one letter from a tenant describes a bike being parked in the hallway as a nuisance;

- one letter from a tenant describing an offensive odour coming from the hallway on the main floor of the building; and
- one letter from a tenant describing several occasions when Tenant A came to the tenant's door intoxicated and asking for money in exchange for various items.

The manager states that on one occasion in November 2010, Tenant A confronted her in the hallway of the building and spoke to her in a loud voice, swearing and not making sense. The manager states that she felt threatened by the tenant, who smelled like alcohol, interrupted her as she was attempting to respond to the Tenant, stepped towards the manager and became louder. The building manager provided a signed letter from a person who witnessed that incident. Lastly, the manager states that tenants have complained that persons come to the Tenants outside window at night, drinking and smoking and entering the unit through the window.

The Tenants confirm that they did have a bike parked in the hallway for a short period of time but moved it after complaints were received. The Tenants confirm that there was a strong odour coming from the hallway but that the odour came from past their unit and emanated from another tenant's unit. Tenant A confirmed that she has borrowed money from other tenants and has attempted to apologize and repay the monies but stayed away after knocks on their doors went unanswered. Tenant A confirms that her behaviour was rude and out of order with the building manager during the incident in November and stated that she did apologize that same day and again the next morning. The Tenants confirm that visitors did come to their window for entry until approximately October 2010 but states that they had no buzzer code at the front door for their guests to use until October 2010.

Analysis

In this type of application, the burden of proof rests with the Landlord to provide compelling evidence that the Notice was validly issued for the stated reasons. In this case, the Landlord must show compelling evidence that the Tenants significantly

interfered with or unreasonably disturbed another occupant or themselves. After careful consideration of all the incidents related above by the Tenant, I find that the landlord has not provided compelling evidence in relation to any of the reasons for cause. The bike was a nuisance but clearly not a significant interference. The odour was significant but may have come from any of the tenants suites in the part of the building that the odour emanated. The Tenant's actions in knocking on the doors of another tenant and asking for money cannot be said to be significant interference as the Tenant did not enter or otherwise interfere with the other tenants' quiet enjoyment of their unit. While the Tenant's actions in confronting the building manager were clearly inappropriate, it was a one-time occurrence, several months ago, the Tenant made a timely apology and it has not happened since. Given all these findings, I find the Notice to be invalid for cause.

Conclusion

I order the Notice dated February 21, 2011 **cancelled** and of no effect.

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: March 17, 2011.

Residential Tenancy Branch