



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with an application by the tenant to cancel a notice to end tenancy for cause. Both parties participated in the conference call hearing.

Issue(s) to be Decided

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

Background and Evidence

This tenancy began May 1, 2011. On May 27, 2011 the landlord served the tenant with a 1 Month Notice to End Tenancy for Cause:

- The tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord.
- The tenant has adversely affected the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord.

The landlord testified that the tenant's two dogs have been barking at night and disturbing the tenants in the apartment below and beside the tenant's and the landlord has received written complaints from the affected tenants. The landlord stated that the tenant has been given a number of breach letters but that is has made no difference to the tenant's control of the barking dogs. To date the landlord has received 4 written complaints about the tenant's dogs barking and disturbing the neighbours.

The landlord stated that there have also been written complaints about guests of the tenants coming and going by the side door which is a fire exit door. The landlord stated that tenants have been complaining about the noise being made by the comings and goings of these people that are visiting the tenant and that they often get woken up repeatedly in the middle of the night. An allegation has also been made that some of these guests of the tenants are smoking drugs in the stairwell which is in direct violation

of the tenancy agreement as this is a Crime Free Multi-Housing building. To date the landlord has given the tenant 4 breach letters for matters related to the dogs barking, the tenants guests using the fire exit for building access and neighbouring tenants being repeatedly awakened by these activities.

The tenant testified that when she first moved in to the building that as it was a new environment for her dogs they did bark when people came to the door or ran down the hall. The tenant states that the dogs now rarely bark as they have settled in to living here and has submitted into evidence, a statement dated June 23, 2011 from the tenant in 203 noting that the late night barking has stopped. The tenant also stated that there are many dogs living in the building besides hers and some of the other dogs also bark. The tenant stated that one of the complainants from her floor lives on the other side of double doors and she has no idea how this tenant could ever even hear her dogs.

The tenant stated that as far as using the side door, that almost everyone in the building uses the side door and not just her. The tenant stated that she started to use the side door to let her company in when her buzzer stopped working. The landlord stated that they have since advised tenants that the side door could be used to exit the building only and that neither tenants nor their guests are to enter through the side door.

The landlord stated that she has had at least 4 more complaints in the past month about the dogs barking however none of these complaints are in writing. The landlord claims that tenants do not want to put the complaints in writing for fear of the tenant confronting them. The tenant maintains that the noise has settled down and that she has not confronted tenants but will ask if the dogs are being bothersome when she see neighbours in the hallway.

Analysis

Based on the documentary evidence and testimony of the parties I find that there is insufficient evidence to uphold the Notice to End Tenancy for Cause.

I do recognize that there have issues with the tenants dogs barking and numerous people coming and going from the building around the time the notice was served, however I am not satisfied that all of the people coming and going from the side entrance are going to the tenants apartment or that the tenant has not resolved the issue of the dogs barking being a nuisance.

The landlord refers to more complaints however none of these complaints are in writing. And as all tenants in the building have been using the side entrance, it is impossible to determine that it was only guests of the tenants that were being noisy.

It was made very clear in this hearing that if there are continued issues with the dogs barking or if the tenant continues to let her guests in via the side door, the record of these events would form part of the landlord's case should it again come before a dispute resolution officer for consideration.

The tenant understands that to ensure her tenancy stays in place, that she must continue to control the barking of her dogs and that she is not to use the side door to let people into the building but use the front door.

Accordingly, the notice to end tenancy is hereby set aside and the tenancy continues in full force and effect.

Conclusion

I therefore allow the tenant's application and set aside the landlord's Notice to End Tenancy for Cause dated May 27, 2011, with the result that the tenancy continues uninterrupted.

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: June 30, 2011.

Residential Tenancy Branch