



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, OPT

Introduction

This hearing dealt with the Tenant's Application for Dispute Resolution, seeking an order to cancel a Notice to End Tenancy issued for alleged cause and for the Tenant to obtain an order of possession for the rental unit.

Despite this being the Tenant's Application, he did not appear.

An Agent for the Landlord appeared, gave affirmed testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

Issue(s) to be Decided

Should the Notice to End Tenancy be cancelled?

Is the Tenant entitled to an order of possession?

Background and Evidence

The parties have been to one prior hearing regarding an earlier Notice to End Tenancy issued to the Tenant. That Notice to End Tenancy was cancelled as the Landlord failed to provide sufficient evidence to support the Notice to End Tenancy.

In this present instance, the Landlord issued the Tenant a one month Notice to End Tenancy for cause, served in person on June 17, 2011, with an effective end date to the tenancy of July 31, 2011 (the "Notice"). The Notice indicates the causes alleged are that the Tenant has allowed an unreasonable number of occupants in a rental unit, that the Tenant or a person permitted on the residential property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord, or put the landlord's property at significant risk, and the tenant has engaged in illegal activity that has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property.

The rental unit is one of 20 small bungalow style units occupied by senior citizens.

The Agent for the Landlord testified that the Tenant has continually allowed a constant stream of visitors to and from the rental unit, who disturb the others residents. The Landlord submits that often these visitors stay for only a few minutes and then leave. The Landlord alleges this is consistent with patterns in the drug trade.

The Tenant and his guests consume alcohol and marijuana, and have created noise disturbances during the daytime hours. The Landlord has provided numerous warning letters to the Tenant.

The Tenant was also cautioned in the Decision from the last hearing, in December of 2010, that it would be, "... wise to refrain from giving other occupants of the residential complex reason to complain."

Nevertheless, residents of 16 of the 20 rental units have signed a petition to the administrative board requesting action be taken against the Tenant, explaining the Tenant has impacted their quiet enjoyment of their units. They complain of excessive alcohol consumption and noise coming from the subject rental unit.

According to the testimony and submissions of the Landlord, the Tenant claims he uses marijuana for medical purposes, however, the Tenant has produced no medical permit or authorization to the Landlord, or in evidence for this hearing, to support that claim.

The Landlord asserts that the Tenant's lack of housekeeping has caused bed bug infestations in the rental unit and in adjoining units. The Landlord also asserts that some of the visitors to the Tenant may be bringing in the bedbugs.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find that the Tenant did not appear at the hearing in support of his Application and has insufficient evidence to prove the Notice to End Tenancy should be cancelled.

I find that the Notice is valid, as the Tenant or a person permitted on the residential property by the Tenant has significantly interfered with or unreasonably disturbed other occupants. As I have found one cause to be valid, I need not address the other causes listed in the Notice.

Having made the above findings, I dismiss the Tenant's Application without leave to reapply.

As the Tenant's Application was dismissed, the Agent for the Landlord requested an order of possession to take effect on the effective date of the Notice. Pursuant to section 55 of the Act, I must grant that request.

I grant and issue an order of possession to be effective **at 1:00 p.m. on July 31, 2011**, in favour of the Landlord.

Conclusion

The Tenant failed to appear and had insufficient evidence to support his Application, therefore, his Application is dismissed.

Pursuant to section 55 of the Act, the Landlord is issued an order of possession for the rental unit effective at 1:00 p.m. July 31, 2011.

This Decision and order are final and binding on the parties, except as otherwise provided for by the Act.

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: July 19, 2011.

Residential Tenancy Branch