



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, FF

Introduction

A substantial amount of documentary evidence and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

Issue(s) to be Decided

This is a request to cancel a Notice to End Tenancy and a request for recovery of the filing fee.

Background and Evidence

August 31, 2011 the tenant was personally served with a one month Notice to End Tenancy that had the following reasons checked off:

- Tenant or person permit on the property by the tenant has significantly interfered with, or unreasonably disturbed another occupant, or the landlord.
- The tenant has engaged in illegal activity that has, or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord

The landlord testified that:

- They have had numerous complaints from other occupants of the rental property about the loud fights between the respondent and the female occupant of the dispute residence.
- This loud yelling and screaming disturbs the other occupants at all hours of the day and night and the other occupants are living in fear because of the violent nature of the fights.
- The RCMP have even had to be called because of the disturbances.

The landlord therefore requests that this Notice to End Tenancy be upheld and that an Order of Possession be issued.

The tenant testified that:

- He has had numerous fights with his girlfriend however the landlord has never come and talked to him about the problem.
- On one occasion when they were having a particularly loud fight the RCMP was called however no charges were ever laid.
- He understands how the noise they are making could be disturbing the other tenants, however it does not think it's reasonable to end this tenancy.
- Because of the problems however he is willing to vacate by October 15, 2011 if the landlord agrees.

In response to the tenant's testimony the landlord testified that:

- He is willing to allow the tenant to stay until October 15, 2011, but only if the October 2011 rent is paid.
- He is however concerned that if he agrees to allow the tenant to stay till October 15, 2011, the tenant may not vacate, or may not pay the October 2011 rent, and therefore he still requesting an Order of Possession for as soon as possible.

Analysis

Based on the testimony of both the landlord and the tenant is my finding that the loud fighting between the tenant and his girlfriend is unreasonably disturbing the other occupants of the rental property and therefore I am not willing to set the Notice to End Tenancy aside.

I therefore will issue an Order of Possession to the landlord that is enforceable two days after service on the tenant; however the landlord did state that if the tenant pays the full October 2011 rent plus late fees he will not enforce the order before October 15, 2011.

Conclusion

The tenant's application is dismissed in full without leave to reapply and I have issued an Order of Possession to the landlord that is enforceable two days after service on the tenant.

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: October 03, 2011.

Residential Tenancy Branch