



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, FF, MNDC, OLC, PSF

Introduction

A substantial amount of documentary evidence, photo 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 for an order to cancel a Notice to End Tenancy that was given for cause, a request for a monetary order for \$4800.00 and a request for recovery of the \$50.00 filing fee.

First of all it is my decision that I will not deal with all the issues that the applicant has put on the application. For claims to be combined on an application they must related.

Not all the claims on this application are sufficiently related to the main issue to be dealt with together.

I therefore will deal with request to cancel the Notice to End Tenancy that was given for cause and I dismiss the remaining claims with liberty to re-apply.

Background and Evidence

The landlord testified that:

- The Notice to End Tenancy was given to the tenants due to an incident that occurred on September 16, 2011.
- On September 16, 2011 the resident manager found some garbage left by the elevator on the second floor and when she knocked on the applicant's door to see if the garbage was left by them the tenant started screaming at her.
- The resident manager therefore left the scene and went back to her own suite.
- The applicants came down to the resident manager suite and started yelling and screaming and physically attempting to force open the manager's door.
- The applicants were witnessed kicking the door, pounding on the door with close fists, and yelling loudly at the resident manager through the door.
- The applicants caused such a disturbance and the managers felt so threatened by this that they called the police.
- This whole incident was witnessed by another tenant in the rental property.
- Other occupants of the rental property were also disturbed by this loud disturbance.
- This was an unreasonable disturbance of both the resident manager and the other occupants of the rental property and therefore they have given the Notice to End Tenancy.

The tenants testified that:

- It was the resident manager that was the abusive person in this exchange.
- The resident manager pounded on their door and when they answered the resident manager started screaming at them and accusing them of leaving garbage by the elevator.
- These were totally unfounded allegations based solely on prejudice and racism.

- They did go to the manager's suite later on to try and politely resolve the issue but at no time did they kick or pound on the manager's door. They only spoke politely to the managers.
- The managers began became abusive when they answered the door and it was the managers who were yelling and screaming at them.
- The managers did call the police; however it was they should have called the police because it was the managers who were being abusive.
- Their neighbour witnessed the incidents and saw that it was the managers who were abusive; however their neighbour is unable to testify at this time.

The applicants are therefore requesting that the Notice to End Tenancy be cancelled and that this tenancy continues.

Analysis

It is my finding that the landlords have shown that the applicants unreasonably disturbed both the resident managers and other occupants of the rental property.

I have direct testimony from the resident manager and witness letters from other occupants of the rental property that confirm that it was the applicants in this case that caused the disturbance.

The applicants were witnessed pounding and kicking the resident manager's door and yelling loudly at the manager. This behaviour is not reasonable and not the type of behaviour to which the resident manager or other occupants of the building should be subjected.

Therefore I will not set aside the Notice to End Tenancy that was served on these tenants, and this tenancy ends pursuant to that notice

Conclusion

The tenant's application to cancel the Notice to End Tenancy is dismissed and I have issued an Order of Possession to the landlords for 1 p.m. October 31, 2011.

As stated previously, the application for a monetary order is dismissed with leave to reapply.

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 31, 2011.

Residential Tenancy Branch