



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with the tenants' Application for Dispute Resolution seeking to cancel a notice to end tenancy.

The hearing was conducted via teleconference and was attended by the tenants and the landlord's agent.

The tenant clarified that although he had checked off AAT and O on the Application the only dispute was seeking to cancel the notice to end tenancy. I have amended the tenants' Application to deal solely with the tenant's request to cancel the notice.

The landlord's agent did not verbally request an order of possession during the hearing.

Issue(s) to be Decided

The issues to be decided are whether the tenants entitled to cancel a 1 Month Notice to End Tenancy for Cause, pursuant to Sections 47 of the *Residential Tenancy Act* (Act).

Background and Evidence

The parties agree the tenancy began on July 1, 2011 as a month to month tenancy with a monthly rent of \$900.00 due on the 1st of each month with a security deposit of \$450.00 paid.

The landlord's agent testified the tenants have been disturbing other residents in the residential property as well as other neighbours and the landlord since August 2011. The nature of the disturbances includes banging doors and yelling as well as parties being held. The agent also testified he and his wife, also a property manager, have both spoken to the tenants about the disturbances.

The tenants acknowledge they have caused these disturbances, primarily from their children who have recently been returned to them from being in care; that they receive support from family services and that they have had one of their children move in with his grandmother because of the disturbances.

After a birthday party in late October 2011, the landlord issued a 1 Month Notice to End Tenancy on October 31, 2011 with an effective vacancy date of November 30, 2011

citing the tenants or a person permitted on the property by the tenants has significantly interfered with or unreasonably disturbed another occupant or the landlord.

Both parties confirmed that after issuing the notice another event that caused disturbance to other tenants occurred in mid November.

Analysis

Section 47 of the *Act* allows a landlord to end a tenancy by giving notice to end the tenancy if, among other things, one or more of the following applies:

- a) The tenant or a person permitted on the residential property by the tenant has
 - i. Significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property,
 - ii. Seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant, or
 - iii. Put the landlord's property at significant risk;
- b) The tenant or a person permitted on the residential property by the tenant has caused extraordinary damage to the rental unit or residential property;
- c) The tenant
 - i. Has failed to comply with a material term, and
 - ii. Has not corrected the situation within a reasonable time after the landlord gives written notice to do so;

While I accept the tenants are in predicament regarding their children's behavior and its impact on the other residents in the residential property, I find the landlord has an obligation to the other residents in the property as outlined in Section 28 of the *Act*. Section 28 states tenants are entitled to quiet enjoyment including, but not limited to reasonable privacy; freedom from unreasonable disturbance; exclusive possession of the rental unit and use of common areas.

I accept the landlord's position that failure on the part of the tenants to correct the behavior that is causing the disturbances to other tenants is impacting the landlord's ability to fulfill his obligations to the other tenants in the property.

I accept that the landlord has discussed with the tenants the disturbances and the impact they have on both the other tenants and the potential impact on the tenancy itself. I acknowledge that even after this notice to end the tenancy was issued, there was an additional disturbance.

As such, I find the landlord has sufficient cause to end the tenancy and that the 1 Month Notice to End Tenancy for Cause issued on October 31, 2011 is effective.

Conclusion

For the reasons noted above, I dismiss the tenants' Application in its entirety.

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: November 28, 2011.

Residential Tenancy Branch