



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 for an order to set aside a notice to end tenancy. Both parties attended the hearing and had opportunity to be heard.

The landlord filed a compact disc that contained recordings of the tenant's activities on October 29, November 25 and November 26. The landlord did not serve the tenant with a copy of this evidence and therefore this evidence was not considered in the making of this decision.

Issue to be Decided

Does the landlord have grounds to end this tenancy?

Background and Evidence

The tenancy began on October 20, 2010. On November 28, 2011, the landlord served the tenant with a one month notice to end tenancy for cause.

The notice to end tenancy alleges that the tenant has significantly interfered with or unreasonably disturbed another occupant and has seriously jeopardized the health, safety and lawful rights of another occupant.

The landlord testified that the tenant smashed a television set in a common area by the garbage bin and did not clear away the glass pieces. The tenant argued that he was simply trying to dispose off the set and he did clean up after. The landlord also described incidents that occurred on November 25 and 26 in which other tenants were intimidated and assaulted by the tenant. The tenant stated that he and another tenant were engaging in horse play and that he did not assault any other tenant. The landlord stated that all these incidents were caught on the surveillance recordings.

Analysis

In order to support the notice to end tenancy, the landlord must prove at least one of the grounds alleged, namely that the tenant has significantly interfered with or unreasonably disturbed another occupant and/or has seriously jeopardized the health, safety and lawful rights of another occupant.

The landlord did not provide any evidence other than the compact disc which was not admissible. Based on all the oral testimony of both parties I accept that the tenant behaved badly on the dates in question (October 29, November 25 and 26), but these incidents are the only complaints of the landlord against this tenant, in the tenancy of over one year. A possibility exists that these incidents were isolated and not an ongoing pattern of behaviour for this tenant.

I therefore allow the tenant's application and set aside the landlord's Notice to End Tenancy dated November 28, 2011. As a result, the tenancy shall continue in accordance with its original terms.

The tenant would be wise to refrain from giving other occupants of the residential complex, reason to complain. I find it timely to put the tenant on notice that, if such behaviours were to occur again in the future and another notice to end tenancy issued, the record of these events would form part of the landlord's case should it again come before a dispute resolution officer, for consideration.

Conclusion

The notice to end tenancy is set aside and the tenancy will continue.

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: December 19, 2011.

Residential Tenancy Branch