



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, OPC, OPB, 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 decision deals with two applications for dispute resolution, one brought by the tenant and one brought by the landlords. Both files were heard together.

The landlord's application is a request for an Order of Possession based on a Notice to End Tenancy that was given for clause, and a request for recovery of their filing fee.

The tenant's application is a request to cancel a Notice to End Tenancy that was given for clause, and a request for recovery of her filing fee

Background and Evidence

The landlords testified that:

- The tenant had parked in a handicapped spot/fire lane, and therefore they phoned the tenant to inform her that she had to move her vehicle.
- The tenant told her that she would be back in two to three hours and remove her car however they insisted that she returned as soon as possible to take care the situation.
- The tenant arrived about a half hour later and moved the car to a no parking area.
- When I notice she was in the no parking area I approached her to inform her that she would have to move her car again or it would be towed, and at that time she became verbally abusive and started making racist remarks telling me to go back to Russia and go back to my Russian mafia.
- She did eventually move her car but she walked away continuing to yell.
- Later in a telephone conversation where she was asking me about the towing company and who can tow cars, she said "you are Nazis"
- Shortly after the above incident she noticed two tow trucks coming into the complex. The trucks pulled in right behind her car and her husband's truck and were preparing to tow them.
- She found out from the tow truck driver that they received a call from a woman who used my name and requested that the vehicles be towed, falsely stating that towing notices were on these two vehicles.
- The tow truck company identified the tenant's phone number as the number from which the call had come.
- Later on the same day the tenant started yelling for her balcony calling me a retard and other names and calling my husband an asshole.

- They find the tenant's aggressive behaviour very disturbing and racist, and have had complaints from other tenants in the building about the inappropriate behaviour.

The landlords are therefore requesting that the Notice to End Tenancy be upheld and that an Order of Possession be issued.

The tenant testified that:

- She did have some heated words with the landlord over this parking issue; however she never made any racist remarks towards the landlord.
- She does admit that, in anger, she did call the landlord a bitch and said she had no heart; however she later apologized for those comments.
- She also admits that when she saw the landlord in a no parking spot she did say to the landlord those spots are for handicapped people not retards.
- She also later apologized to the landlord for that remark.
- She also admits that she called the tow truck company after speaking with the fire department, because she felt it was a safety hazard having the landlords cars parked where they were.

The tenant believes that this Notice to End Tenancy should be cancelled because it is mainly over just one issue for which she was given no warning.

Analysis

It is my finding that the landlords have shown that the tenant is unreasonably disturbed the landlord/manager by her actions.

The tenant has admitted that she called the manager a bitch and that she implied the landlord was retarded, and it is not reasonable for a manager to have to put up with that kind of abuse, even if the tenant phones and apologizes later.

Further although the tenant claims she called the tow trucks due to safety concerns, I believe it's more likely that it was an attempt at retaliation for the manager threatening to have her vehicle towed for parking in the no parking area.

Therefore since I have found that the tenant's actions unreasonably disturbed the landlord/manager, I will not be setting aside the Notice to End Tenancy and this tenancy ends at the end of December 2011.

Conclusion

Tenant's application

The tenant's application is dismissed without leave to reapply.

Landlords' application

I have issued an Order of Possession to the landlords for 1 p.m. on December 31, 2011 and have ordered that the tenant bear the \$50.00 cost of the filing fee paid by the landlords.

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 13, 2011.

Residential Tenancy Branch