



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 for Dispute Resolution by the tenants to cancel a one month notice to end tenancy for cause.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

The landlord has requested an order of possession if the tenants' application is dismissed.

In a case where a tenant has applied to cancel a Notice for cause Residential Tenancy Branch Rules of Procedure require the landlord to provide their evidence submission first, as the landlord has the burden of proving cause sufficient to terminate the tenancy for the reasons given on the notice.

Issue(s) to be Decided

Are there grounds to set aside and cancel the one month notice to end tenancy?

Background and Evidence

The tenancy began on January 12, 2010. Rent in the amount of \$750.00 was payable on the first of each month. A security deposit of \$375.00 was paid by the tenant.

On December 12, 2011, the landlord issued a one month notice to end tenancy for cause and personally served the tenant. The parties agreed the effective date on the notice was January 12, 2012.

The landlord had several reasons indicated on the notice. However, this hearing proceeded based on the following reason:

- The tenant or person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord.

The landlord testified that on more than five occasions in the last seven months the police have attended at the tenants' rental unit. The police attended to deal with complaints of loud music and parties that were unreasonably disturbing other occupants of the building.

The landlord testified that he often has verbal complaints from other occupants about the loud music coming from the tenants' rental unit.

The landlord further testified that the last incident was a fight the tenant had with one of his guest. The fight went out of the tenants' rental unit into the hallway, thru the fire door, causing damage to the fire door and drywall and ended in the entrance of the building.

The tenant testified that he is a heavy drinker, and when he gets drunk he turns up the music loud. The tenant acknowledged that other occupants in the building are frustrated and have called the police a minimum of every second month for the loud music or noise coming from his rental unit.

The tenant further testified that he did have a fight with one of his guest.

Analysis

Based on the above, the testimony and evidence, an on a balance of probabilities, I find as follows:

I find the notice to end tenancy for cause is valid. The evidence of the parties was the police have attended the tenants' rental unit at least five times in the last seven month for complaints of loud music, parties and fights.

The tenant acknowledged that he is a heavy drinker and likes to turn his music up, which unreasonably disturbed other occupants.

Therefore, I dismiss the tenants' application to set aside and cancel the notice to end tenancy.

As the tenants' application is dismissed and the landlord requested an order of possession at the hearing, pursuant to section 55 of the Act, I must grant this request.

Section 55(1) of the Act states:

Order of possession for the landlord

55 (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant an order of possession of the rental unit to the landlord if, at the time scheduled for the hearing, (a) the landlord makes an oral request for an order of possession, and (b) the director dismisses the tenant's application or upholds the landlord's notice.

The landlord requested an order of possession effective January 12, 2012. Section 53 of the Act stipulates that if the effective date stated in a notice is earlier than the earliest date permitted under the legislation, the effective date is deemed to be the earliest date that complies with the legislation. Therefore, I find that the effective date of this notice to end tenancy is January 31, 2012, at 1:00 p.m.

This order must be served on the tenant and may be filed in the Supreme Court.

Conclusion

The tenants' application to set aside and cancel the notice to end tenancy is dismissed.

The landlord is granted an order of possession effective January 31, 2012.

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: January 12, 2012.

Residential Tenancy Branch