



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, OLC, RP, RR, O

Introduction

Some 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

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 the request to cancel the Notice to End Tenancy, 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 because they have had numerous complaints of ongoing noise and loud arguments and pounding from the tenant's suite.
- I have spoken to the tenants to try and resolve the issue however whenever I do so tenant starts yelling and swearing at me and nothing seems to change.

- The police have been called numerous times because of noise complaints and an ambulance was called on one occasion.
- The tenant living below this tenant vacated due to the noise and other tenants are threatening to leave if this tenant is not evicted.
- It is not reasonable for the other tenants to put up with this noise and it is not reasonable for me to have to put up with being yelled and sworn at whenever I try to deal with the issues with the tenant.
- I want this tenancy ended and an Order of Possession for the end of February 2012.

The tenant testified that:

- I agree that I have had numerous complaints in the past, however I have made many changes since then and I believe things are much better now.
- I also agree that I have anger issues and I have blown up at the landlord at times, however I am also dealing with those issues with professionals as I want to get the problem under control before my first child is born.
- My fiancé is pregnant with our first child and she is very young and emotional and as a result we have had some difficulties. We are both trying to deal with these difficulties as best we can.
- I know we probably have to move but moving at this time would be very difficult.

Analysis

It is my decision that the landlord does have reasonable grounds to end this tenancy.

It is not reasonable for landlord to have to put up with yelling and swearing when he attempts to deal with applicants, and although the tenant states that he is attempting to change his behaviour these issues have already occurred and I will not cancel the Notice to End Tenancy.

The tenant has also admitted that in the past there has been some noise coming from his rental unit however he states that he now gets numerous noise complaints when they are not even home and he does not believe the noise is coming from his suite.

It is my finding that the landlord has supplied sufficient evidence to show “on the balance of probabilities” that there is still a significant amount of noise coming from the applicant’s rental unit.

I therefore will not set the Notice to End Tenancy aside and this tenancy ends pursuant to that notice.

Conclusion

The tenant's application to cancel the one month Notice to End Tenancy is dismissed without leave to reapply and I have issued an Order of Possession to the landlords for 1:00 PM on February 29, 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: February 23, 2012.

Residential Tenancy Branch