



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MT, CNC

Introduction

This conference call hearing was convened in response to the tenant's application for more time to make an application to cancel a notice to end tenancy, and for cancellation of a 1 Month Notice to End Tenancy for Cause.

Both parties attended the hearing and provided affirmed testimony. They were given a full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Should the tenant be allowed more time to make an application to cancel the notice to end tenancy?

Should the notice to end tenancy be set aside, and should the tenancy continue?

Background and Evidence

The rental unit consists of an apartment in a multi-unit complex combining residential and some commercial tenants. Pursuant to a written agreement, the month to month tenancy started on October 1, 2011. The rent is \$600.00 per month.

The landlord testified that they received several complaints from other occupants that the tenant has parties for which the police have attended 16 times to deal with drugs and alcohol abuse. The landlord specifically made reference to incidents on March 5

and March 8, 2012, stating that the tenant has an underage visitor, and that during the March 8 incident the tenant was handcuffed and escorted by police. The landlord stated that the tenant was served with the 1 Month Notice to End Tenancy in person on March 30, 2012, and that the tenant's application to dispute the notice is beyond the 10 day time frame allowed by the notice.

The 1 Month Notice to End Tenancy for Cause states for reasons; significantly interfered with or unreasonably disturbed another occupant or the landlord; put the landlord's property at significant risk; and adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord.

The tenant testified that the landlord's grounds are untrue, and disagreed with every aspect of these grounds. He stated that he received the notice on April 3, 2012. He said that the incident during which the police handcuffed him resulted in no charges laid, and that the grounds for the search warrant were unfounded. He said that he has medical issues and that for unknown reasons the police attend every time he calls an ambulance. He said that he does drink, and that he does have an underage friend but that he does not have parties, and that he does not abuse drugs or alcohol. He said that he gets along with the other tenants, and that with the exception of having arguments, he is not dangerous, violent, or threatening.

Analysis

Concerning the application for more time to make an application to cancel the notice to end tenancy; Section 66(1) of the Act provides that the director may extend a time limit established by the Act under exceptional circumstances. "Exceptional" implies a set of exigent circumstances that were so compelling that the applicant was unable to submit an application within the required time frame.

At the hearing the tenant's arguments were focused on disputing the grounds for issuing the notice to end the tenancy, but he did not address any reasons for not submitting his

application within 10 days of receiving the said notice, whether it was March 30, or April 3, 2012. More time to make an application on the basis of looking for alternate accommodations, as indicated in his application, does not meet the criteria for exceptional circumstances and for these reasons the application is dismissed.

Section 47(5) of the Act provides that if a tenant who has received a notice to end tenancy for cause does not make an application for dispute resolution within 10 days, the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice and must vacate the rental unit by that date. The tenant in this matter has not filed an application for dispute resolution within the time frame allowed by statute.

Conclusion

The tenant's application is dismissed. The notice to end tenancy is of full force and effect and the tenancy has ended. At the hearing, the landlord did not make an oral request for an order of possession pursuant to Section 55(1) of the Act; if necessary, the landlord may make an application for dispute resolution and request an order of possession.

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: May 10, 2012.

Residential Tenancy Branch