



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, OLC

Introduction

A substantial amount of documentary evidence, photo 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 is a request to cancel a Notice to End Tenancy that was given for cause.

Background and Evidence

The landlords testified that:

- The applicant assaulted another tenant who lives at the rental property.
- The tenant who was assaulted has mental health and hearing problems.
- Surveillance video shows that the parties were having a verbal altercation inside the lobby of the property, and then the applicant followed the other party outside and assaulted him.
- The applicant punched the other party and then when the other party was on the ground he was on top of him punching him over and over again.

- While the assault was occurring the other party was lying in the fetal position attempting to protect himself.
- They feel it's unsafe to allow the applicant to remain living in the same building as the other tenant as it will put that of the tenant at risk.
- The applicant has been charged with assault and there is a no contact order in place between him and the other tenant.

The applicant testified that.

- The other tenant was being extremely verbally abusive towards him in the elevator and I told him to leave me alone.
- The other tenant continued the abuse and even attempted to slap me, called me a bitch and told me to come outside.
- I assume that since he wanted to go outside we were going to fight and therefore when I got outside I started punching him.
- I admit that I did punch him a few more times when he was on the ground but only to try and get him to listen to reason, and to stop being verbally abusive.
- I told him I would let them go if he would leave me alone and I then got up and went back inside.
- Then the tenant followed me back inside continuing the verbal abuse and therefore I called the police.
- The other tenant instigated the altercation and therefore I do not believe that I should be evicted because of this incident.

Analysis

It is my decision that the applicant's behaviour was not a reasonable and therefore I am not willing to set this notice aside.

The applicant claims that the other tenant verbally abused him and attempted to hit him, however he also admits that he then took matters into his own hands and went outside and started punching the other tenant.

The applicant further states that the other tenant called him a bitch and told him to step outside, and therefore he expected it was for a fight and that is why he started punching the other tenant.

Obviously I was not present during this altercation and if the other tenant was being a verbally abusive I certainly do not condone that behaviour, however that still does not give the applicant the right to physically assault the other tenant.

The applicant had the choice to walk away, especially when the other tenant walked outside, yet he chose to go and fight with him, and that was the wrong choice.

Therefore it is my decision that the Notice to End Tenancy served on the tenant will stand and this tenancy ends on May 31, 2012.

Conclusion

This application is dismissed in full without leave to reapply and at the request of the landlords I have issued an Order of Possession for 1 p.m. May 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: May 14, 2012.

Residential Tenancy Branch