



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, OPT, FF

Introduction

This hearing dealt with the tenant's application for dispute resolution under the Residential Tenancy Act (the "Act"), seeking to cancel a 1 Month Notice to End Tenancy for Cause (the "Notice"), to obtain an order of possession for the rental unit and to recover the filing fee.

The parties and the landlord's witnesses appeared and were all affirmed into the hearing. Thereafter the witnesses were excused until their testimony was needed.

Thereafter the hearing process was explained, the parties gave affirmed testimony and were provided the opportunity to present their evidence orally and in documentary form, and to make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

Has the tenant established an entitlement to have the Notice to End Tenancy for Cause cancelled?

Background and Evidence

This month to month tenancy began on September 1, 2011, monthly rent is \$575.00 and the tenant paid a security deposit of \$287.50 at the beginning of the tenancy.

Pursuant to the Residential Tenancy Branch rules of procedure, the landlord proceeded first in the hearing and testified in support of issuing the tenant a 1 Month Notice to End Tenancy for Cause. The Notice was dated April 30, 2012, was delivered via personal delivery on that date, according to the landlord, listing an effective end of tenancy on May 31, 2012. The tenant disputed the delivery date, stating she received the Notice on May 1, 2012, when she paid the rent.

The cause as stated on the Notice alleged that the tenant significantly interfered with or unreasonably disturbed another occupant or the landlord. The landlord also alleged that the tenant significantly interfered with or unreasonably disturbed neighbours.

The landlords' relevant evidence included the Notice, letters from some neighbours, a letter and follow-up letter sent to the tenant by the city, a previous dispute resolution decision and review decision.

In support of their Notice, the landlord testified that the tenant filed an application for dispute resolution against the landlord, seeking compensation of in excess of \$24,000.00; however the application was dismissed. As well, the landlord stated that the tenant filed an application for review of that decision, and that application was dismissed.

When questioned, the landlord stated that the main issue with the tenant was the "lawsuit" she filed against him. Additionally, the landlord submitted that the city building inspector expressed a concern to the landlord about the tenant's attitude.

The landlord's witness, TT, stated that he was the property manager of the landlord until April 30, 2012, and resigned due to the actions of the tenant. When asked for more specific details as to why the Notice was issued, the witness stated that the tenant "took us to RTB."

The witness stated that the tenant would not allow him to perform a condition inspection of the rental unit at the beginning of the tenancy. When questioned, the witness could not produce any written requests or specific details of when a written request was issued to the tenant.

The witness also submitted that the tenant parked illegally in the driveway.

In response, the tenant submitted that the witness filled out the move-in condition inspection report without an inspection and had her signature already on the document, even though there had been no inspection. Additionally, the tenant disputed the content of the condition inspection report, stating that the condition was listed as good, when it was the opposite.

Analysis

Based on the foregoing, the affirmed testimony and evidence, and on a balance of probabilities, I find that the Notice to End Tenancy should be cancelled.

The landlord had insufficient evidence to show the tenant significantly interfered with or unreasonably disturbed another occupant or the landlord. The filing of papers where one party seeks remedy against the other party under the Residential Tenancy Act does not constitute significant interference; it is a right of landlords and tenants under the Act.

As I informed the landlord, alleged interference against the neighbours is not a reason under the Act to end a tenancy as the landlord is not able to create boxes or add parties on the Notice to End Tenancy document in order to end the tenancy.

Conclusion

As a result, I find the landlord's 1 Month Notice to End Tenancy for Cause, dated April 30, 2012, for an effective move out date of May 31, 2012, is not valid and not supported by the evidence, and therefore has no force and effect. I order that the Notice be cancelled, with the effect that the tenancy will continue until ended in accordance with the *Act*.

I have decline to award the tenant to recover the filing fee as one was not paid.

I caution the landlord that under section 95(2) of the Act, any person who coerces, threatens, intimidates or harasses a tenant from making an application under the Act, or for seeking or obtaining a remedy under the Act, may be found to have committed an offence and is subject to a fine or administrative penalty.

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 30, 2012.

Residential Tenancy Branch