



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with an application by the tenant to cancel a notice to end tenancy for cause.

Both parties participated in the conference call hearing.

Issue(s) to be Decided

Is the tenant entitled to any of the above under the Act.

Background and Evidence

On May 31, 2012 the landlord served the tenant with a 1 Month Notice to End Tenancy for Cause:

The tenant has:

- significantly interfered with or unreasonably disturbed another occupant or the landlord.

The landlord testified that after receiving a written complaint regarding noise from a tenant in the building that on May 1, 2012 he issued the tenant a warning letter. The landlord then received written documentation from the tenant being affected noting that she has been woken up on 6 different occasions between May 4th and May 13 by noise from the tenants rental unit between the hours of midnight to 5:00AM. The landlord stated that the tenant being affected has resided in the building since 2010 and never had any issues with noise prior to this time.

The tenants testified that the accusation of him being noisy and disturbing other tenants is unfounded. The tenant stated that he takes medication at night to help him sleep and that he does not watch his tv in the bedroom, which is the room with the common wall. The tenant stated that the noise may actually be coming from the 12th floor and maintained that he was not the source of the noise.

The landlord stated that since issuance of the notice to end tenancy the noise and subsequent complaints have stopped. The landlord also commented that the tenant reportedly had someone staying with him which the tenant denied.

The landlord suggested relocating the tenant to a different area within the building and that this may solve any problems related to noise and these two rental units. The tenant agreed to relocate and the parties will meet to discuss this matter outside of this hearing.

Analysis

The landlord testified that the tenant has corrected the issue that the landlord had based the notice to end tenancy on therefore the landlord's notice will be set aside. And while the tenant's advocate argued that the complaining tenant's documentation submitted into evidence by the landlord is unsubstantiated, I accept this evidence and had the noise not ceased, the landlord may have been entitled to an order of possession.

The parties in this hearing have however agreed that the tenant will relocate to a different rental unit in the building and this relocation will hopefully bring an end to the noise complaints associated with this tenancy.

The tenant understands that while the landlord's May 31, 2012 notice to end tenancy has been set aside that if the tenant's behaviour creates problems on the property in the future, the record of these events would form part of the landlord's case should it again come before a dispute resolution officer for consideration.

The landlord's 1 Month Notice to End Tenancy for Cause dated May 31, 2012 is hereby set aside with the result that the tenancy continues uninterrupted.

Conclusion

I therefore allow the tenant's application and set aside the landlord's 1 Month Notice to End Tenancy for Cause dated May 31, 2012 with the result that the tenancy continues uninterrupted.

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: June 27, 2012

Residential Tenancy Branch