



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

CNC

Introduction

This Hearing was scheduled to hear the Tenant's application to cancel a *One Month Notice to End Tenancy for Cause* (the "Notice") issued June 25, 2012.

Both parties gave affirmed testimony at the Hearing.

The Tenant filed her Application for Dispute Resolution on July 4, 2012. It was determined that the Landlord received the Notice of Hearing documents on July 16, 2012. Although the Tenant did not serve the Landlord with the Notice of Hearing documents within 3 days of filing her application, as required by the Act, the Landlord indicated that he did not require more time to prepare and that he wished to proceed with the Tenant's application.

The Tenant acknowledged receipt of the Landlord's documentary evidence on July 20, 2012.

Background and Evidence

The Landlord's agent gave the following affirmed testimony:

- This tenancy began on June 1, 2012.
- On June 8, 2012, late at night, the occupant who lives below the Tenant was disturbed by noises coming from the Tenants' suite. The occupant filled out a complaint, a copy of which was provided in evidence.
- On June 12, 2012, the Landlord wrote a warning letter to the Tenant advising that if the Landlord, "received any further complaints, a 30 day notice to end your tenancy will be delivered".
- The Landlord's agents are at the rental property every 2nd or 3rd day in order to show suites to potential tenants and there is loud music coming from the Tenant's suite.
- Another occupant moved out of the rental property because of the noise coming from the Tenant's suite.
- The Landlord would like the Tenant to stay if she can agree to be quiet.

The Tenant gave the following affirmed testimony:

- The Tenant wants to keep the peace. She loves her new home and is looking forward to staying there.
- The Tenant has letters from her other neighbours saying that she is clean and friendly and that there is no cause to evict her.
- The other occupant that the Landlord refers to did not move out because of the Tenant's noise. She was pregnant and needed a bigger place.

Analysis

In a situation where a tenant seeks to cancel a notice to end tenancy, the onus is on the Landlord to provide sufficient evidence that the tenancy should end for the reasons provided on the Notice.

In this case, the Landlord seeks to end the tenancy because the Tenant has significantly interfered with or unreasonably disturbed another occupant or the Landlord.

I find that the Landlord did not provide sufficient evidence that the tenancy should end. The Landlord received only one complaint before issuing the warning letter. The warning letter of June 12, 2012 indicates that a notice to end the tenancy would be issued if the Landlord received any more complaints. The Landlord's agent did not allege that there were any more complaints from fellow occupants in the rental unit. The Landlord's agent was vague about the dates or times of day that the Landlord's agents witnessed noise coming from the Tenant's suite.

Therefore the Tenant's application to cancel the Notice is granted.

The Tenant was cautioned that the Landlord has a responsibility to all of its tenants to provide peaceful enjoyment of their rental units. Excessively loud noise coming from her suite at any time of day can disturb other occupants in the building. Excessively loud noise coming from her suite at any time of day can also cause prospective tenants to choose not to rent another suite in the building.

Conclusion

The Notice to End Tenancy issued June 25, 2012, is cancelled. The tenancy remains in full force and effect until it is ended in accordance with the provisions of the Act.

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: July 27, 2012.

Residential Tenancy Branch