



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant to cancel a 1 Month Notice to End Tenancy for Cause issued on July 4, 2012.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

In a case where a tenant has applied to cancel a notice for cause Residential Tenancy Branch Rules of Procedure require the landlord to provide their evidence submission first, as the landlord has the burden of proving cause sufficient to terminate the tenancy for the reasons given on the notice.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to the relevant facts and issues in this decision.

Issue(s) to be Decided

Should the notice to end tenancy issued on July 4, 2012, be cancelled?

Background and Evidence

The parties agreed that a one month notice to end tenancy for cause was served on the tenant indicating that the tenant is required to vacate the rental unit on August 4, 2012.

The reason stated in the notice to end tenancy was that the tenant has:

- tenant has allowed an unreasonable number of occupants in the unit;
- significantly interfered with or unreasonably disturbed another occupant or the landlord;
- seriously jeopardized the health or safety or lawful right of another occupant or the landlord; and
- put the landlord's property at significant risk;

- tenant has engaged in illegal activity that has, or is likely to damage the landlord's property;
- tenant has engaged in illegal activity that has, adversely affect the quiet enjoyment, security or physical well-being of another occupant or the landlords; and
- tenant has engaged in illegal activity that has, jeopardized a lawful right or interest of another occupant or landlord; and
- the tenant has caused extraordinary damage to the rental unit.

The landlord testified that the tenant has allowed an unreasonable number of occupants in the unit. The landlord stated the tenant's boyfriend is living in the rental unit and that the tenant does not have his permission to have another occupant reside in the rental unit. The landlord stated there is no written tenancy agreement which restricts the tenant to a certain amount of people residing in the unit, however, it was to be the tenant and her children.

The tenant testified her boyfriend does not live in the rental unit and is a visitor. The tenant stated he has his own living accommodation.

The landlord testified that the tenant has unreasonably disturbed the landlord. The landlord stated the tenant's ex-husband attended at the tenant's residence and they ended up having an argument outside on the lawn. This was on one occasion.

The landlord testified that the tenant has engaged in illegal activity. The landlord stated the tenant's ex-husband told him the tenant's new boyfriend was a drug dealer.

The landlord testified the tenant has landlord's put the landlord's property at significant risk. The landlord stated the tenant leaves unlit cigarettes butts on the floor in the carport. The landlord also stated the tenant has a large amount of cooper wire, which she removes from old television and has a large number of old televisions outside that need to be removed. The landlord stated he has never given the tenant written notice to correct the situation.

The landlord testified the tenant has caused extraordinary damage to the rental unit by damaging a screen window.

Analysis

Based on the above, the testimony and evidence, an on a balance of probabilities, I find as follows:

After considering all of the written and oral submissions submitted at this hearing, I find that the landlord has provided insufficient evidence to show that the tenant has:

- tenant has allowed an unreasonable number of occupants in the unit;
- significantly interfered with or unreasonably disturbed another occupant or the landlord;
- seriously jeopardized the health or safety or lawful right of another occupant or the landlord; and
- put the landlord's property at significant risk;
- tenant has engaged in illegal activity that has, or is likely to damage the landlord's property;
- tenant has engaged in illegal activity that has, adversely affect the quiet enjoyment, security or physical well-being of another occupant or the landlords; and
- tenant has engaged in illegal activity that has, jeopardized a lawful right or interest of another occupant or landlord; and
- the tenant has caused extraordinary damage to the rental unit.

The evidence of the landlord was the tenant's boyfriend is living in the rental unit without his consent. The evidence of the tenant was he is not living in the rental unit and is merely a visitor. In this case, there is no written tenancy agreement which prohibits the number of occupants to reside in the rental unit. I find the tenant having her boyfriend reside or visit is not considered an unreasonable number of occupants in the rental unit.

The evidence of the landlord was the tenant and her ex-husband had an argument outside on the lawn, this happened on one occasion. There was no police involvement and there was no evidence to support the noise the landlord heard was unreasonable or ongoing.

The evidence of the landlord was that he was told the tenant's boyfriend was a drug dealer. This is a very seriously allegation, when in fact the landlord has no proof to substantiate such an allegation and this information was provided by the tenant's ex-husband.

The evidence of the landlord was the tenant is putting his property at significant risk by leaving unlit cigarette butts on the floor of the carport. The evidence of the landlord was the tenant also collects copper wire from old television and the tenant has not disposed of the old televisions. However, the landlord has not provided the tenant with any written notice to correct the situation. Further, there was insufficient evidence to support that these two situations are putting the landlords property at significant risk.

The evidence of the landlord was the tenant has caused damage to a screen window, damage to a screen window is not considered extraordinary damage to the rental unit.

In this instance, I find the landlord has failed to prove cause sufficient to terminate the tenancy for the reasons given on the notice.

Therefore, I grant the tenant's application to cancel the 1 Month Notice to End Tenancy for Cause issued on July 4, 2012. The tenancy will continue until legally ended in accordance with the Act.

As, the tenant has been successful with her application, the tenant is entitled to deduct \$50.00 from a future month rent payable.

Conclusion

The tenant's application is granted and the 1 Month Notice to End Tenancy for Cause issued on July 4, 2012 is cancelled. The tenancy will continue until legally ended in accordance with the Act.

The tenant is entitled to deduct \$50.00 from a future month rent payable.

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: August 02, 2012.

Residential Tenancy Branch