



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 the Tenant's application cancel a *One Month Notice to End Tenancy for Cause* (the Notice) issued April 27, 2012.

The parties gave affirmed testimony and had an opportunity to be heard and respond to other party's submissions.

Issue to be Decided

Should the Notice issued April 27, 2012, be cancelled?

Background and Evidence

The Tenant filed his Application to cancel the Notice on May 4, 2012, and the matter was set for Hearing by teleconference on May 29, 2012. On May 29, 2012, it was determined by the Dispute Resolution Officer that this matter should be heard 'in person' due to the Tenant's hearing impairment. It was adjourned to June 19, 2012.

On June 19, 2012, the parties gave the following testimony:

This tenancy began on December 1, 2004. Current rent is \$685.00. The Tenant paid a security deposit in the amount of \$285.00 at the beginning of the tenancy.

The Tenant acknowledged receiving the Notice on April 27, 2012, taped to his door. The Notice alleges that the Tenant has significantly interfered with or unreasonably disturbed another occupant or the Landlord, and has put the Landlord's property at significant risk.

The Landlord testified that the rental unit requires considerable cleaning and that the Tenant's lack of cleaning has resulted in an infestation of grain weevils which have spread to other apartments in the building. She testified that the Tenant also stacks

bags of materials in his apartment against the wall, causing possible mould growth and causing a fire hazard. The Landlord provided photographs in evidence.

The Landlord testified that a housing worker offered to assist the Tenant with cleaning up the rental unit, but the Tenant and the worker fell into a disagreement and the Tenant withdrew his consent to have assistance with cleaning.

The Landlord stated that she gave the Tenant 24 hours' written notice to inspect the rental unit, but the Tenant refused to allow her access and called the police.

The Tenant stated that he has started to clean up the rental unit, but agreed that more work was required. The Tenant provided photographs in evidence.

The Tenant stated the grain weevil infestation has been eradicated. The Tenant agreed that he needed assistance to finish cleaning up the rental unit and stated that he was ready to agree to accept that assistance. The Tenant's advocate asked for an adjournment in order to allow a worker to help the Tenant finish the required cleaning. The Landlord did not object to the adjournment and the matter was adjourned by consent to July 20, 2012.

On July 20, 2012, the parties gave the following testimony:

The parties stated that there has been some improvement in the cleanliness of the rental unit, but agreed that there was still more work to be done. The Tenant provided more photographs of the rental unit.

The Tenant stated that he wants to move and is hoping to find alternate accommodation with the help of his advocates.

The Landlord asked for another adjournment to allow the Tenant more time to find suitable alternate accommodation. The matter was adjourned by consent to September 14, 2012.

On September 14, 2012, the parties gave the following testimony:

The Tenant stated that he has made more progress with respect to cleaning up the rental unit. His advocates testified that no suitable alternate accommodation has yet been found, although it is a priority.

The Landlord stated that she is concerned about the Tenant refusing to allow her access to the rental unit, after being given written notification of her intention to do an inspection.

Analysis

Based on the testimony and documentary evidence provided, I find that the Landlord has not established sufficient proof that the tenancy should end for the reasons outlined on the Notice to End Tenancy dated April 27, 2012. With the Landlord's consent, there have been two adjournments in order to allow the Tenant more opportunity to bring the rental unit to a condition that complies with Section 32(2) of the Act. At the reconvened Hearing on July 20, 2012, I find that the Tenant established that he was further ahead in complying with the Act. At that Hearing, the Landlord requested another adjournment in order for the Tenant to find alternate accommodation. At the reconvened Hearing on September 14, 2012, I find that the Tenant provided more evidence that he was continuing to make real progress in complying with Section 32 of the Act. Therefore, I grant the Tenant's application to cancel the Notice to End Tenancy. The tenancy remains in full force and effect until it is ended in accordance with the provisions of the Act.

However, the Tenant is warned that he must continue to comply with the Act and maintain reasonable health, cleanliness and sanitary standards throughout the rental unit. The Tenant is cautioned that this Decision may be relied upon by the Landlord at any future Hearing with respect to a future Notice to End Tenancy for the same cause.

The Tenant is also warned that he must allow the Landlord access to the rental unit if the Landlord complies with Section 29 of the Act, and to refuse access after such notice has been given could be cause for the Landlord to issue another Notice to End Tenancy.

Conclusion

The Notice to End Tenancy issued April 27, 2012, is cancelled. The tenancy remains in full force and effect until it is ended in accordance with the provisions of the Act.

Dated: September 17, 2012.

Residential Tenancy Branch