

DECISION

Dispute Codes CNC

Introduction

This is an application filed by the Tenant to cancel a notice to end tenancy issued for cause.

Both parties attended the hearing by conference call and gave testimony. The Landlord has acknowledged receiving the Tenant's notice of hearing package. The Tenant did not submit any documentary evidence and has acknowledged receiving the Landlord's evidence. As both parties have attended the hearing and have acknowledged receiving the submitted evidence, I find that both parties have been properly served as deemed under the Act.

At the beginning of the hearing the Landlord stated that he wished for the Tenancy to come to an end.

The Tenant's application for more time (MT) requires no action as both parties agree that the Tenant has applied for dispute resolution (September 12, 2012 within the allowed 10 days after receiving the notice on September 5, 2012.

It was further clarified by the Landlord during the hearing that the second reason for cause noted on the September 5, 2012 notice was in error and is withdrawn.

Issue(s) to be Decided

Is the Tenant entitled to an order cancelling the notice to end tenancy?

Is the Landlord entitled to an order of possession?

Background, Evidence and Analysis

This Tenancy began on September 9, 2011 on a month to month basis as shown by the submitted copy of the signed tenancy agreement.

Both parties agree that the Tenant received the 1 month notice to end tenancy issued for cause dated September 5, 2012 on September 5, 2012 in person. The stated effective date of the notice is October 31, 2012. The reason selected for cause being

challenged is: Tenant or a person permitted on the property by the Tenant has significantly interfered with or unreasonably disturbed another occupant or the Landlord. The Tenant disputes this. The Landlord has provided copies of two warning notices to the Tenant. The first dated May 3, 2012 cites excessive noise coming from the rental unit between 7 and 7:45pm. The notice to Tenant states, the excessive noise was coming from the Tenant's daughter, R.P. and her friends from drinking alcohol in the rental unit and when the Tenant, J.P. arrived home and was advised. The notice states that further excessive noise was reported at 8:30pm on the same night and the Tenants were both warned that any future incidents would result in an eviction. A second notice to Tenant was issued by the Landlord on September 5, 2012 where J.B. witnessed the Tenant, R.P. drinking in the lobby area with other persons and that she was witnessed urinating on the front lawn and that she told everyone to go home. The Tenant, J.P. confirms the notice given on May 3, 2012 but dispute the Landlord's claim.

I find based upon the evidence provided by both parties that on a balance of probabilities the Landlord has established their reasons for cause. The Tenants were warned over the excessive noise and complaints of other Tenants and that an eviction notice would follow. I prefer the evidence of the Landlord over that of the Tenant. The Tenant's application to cancel the notice is dismissed. The Landlord is granted an order of possession for the effective date of the notice on October 31, 2012.

Conclusion

The Tenant's application is dismissed.

The Landlord is granted an order of possession for October 31, 2012.

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: October 17, 2012.

Residential Tenancy Branch