



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, OLC

Introduction

This hearing dealt with the tenant's application for dispute resolution under the Residential Tenancy Act (the "Act") seeking an order cancelling two 1 Month Notices to End Tenancy for Cause (the "Notice") and for an order requiring the landlord to comply with the Act.

The parties appeared, including the tenant's advocate, the hearing process was explained and they were given an opportunity to ask questions about the hearing process.

Thereafter all parties gave affirmed testimony, were provided the opportunity to present their evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

At the outset of the hearing, neither party raised any issues regarding service of the application or the evidence.

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

Issue(s) to be Decided

Is the tenant entitled to an order cancelling two 1 Month Notices to End Tenancy for Cause and to an order requiring the landlord to comply with the Act?

Background and Evidence

The parties agreed that there is no written tenancy agreement, that monthly rent is \$750.00 and the tenant paid a security deposit of \$375.00 at the start of the tenancy. The parties did not agree as to the start date of the tenancy, as the tenant said he moved into the rental unit on August 1, 2012, and the landlord said the tenant moved in

July 16, 2012. The parties also did not agree as to the composition of the rental unit, whether one or two bedrooms were included.

Pursuant to the Residential Tenancy Branch rules of procedure, the landlord proceeded first in the hearing and testified in support of issuing the tenant two 1 Month Notices to End Tenancy for Cause.

In this case, the landlord issued two 1 Month Notices to End Tenancy for Cause, both dated September 24, 2012, for an effective move out date on September 24, 2012. One Notice did not list a cause for ending the tenancy; the second Notice alleged that the tenant 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.

The landlord said that he posted the Notices on the tenant's door on September 24, 2012. When questioned, the landlord could not provide a clear or any reason why two Notices were issued.

The landlord submitted no evidence, but as reason said that he issued the Notices so that his son could move in.

After a short time, the landlord changed his story to say that the tenant was disturbing other occupants and stealing from them. The landlord said the police were called three times.

The tenant denied causing any disturbance or stealing.

As to the tenant's request for an order requiring the landlord to comply with the Act, the tenant said the landlord has refused to prepare a tenancy agreement or give the tenant receipts for rent payments.

The tenant said his agreement included two bedrooms and that the landlord has rented out one of the bedrooms, in violation of the tenancy agreement.

Analysis

Based on relevant oral and written evidence, and on a balance of probabilities, I find as follows:

I grant the tenant's application and I cancel the landlord's two 1 Month Notices to End Tenancy for Cause.

For obvious reasons, I cancel the Notice which did not list a reason or cause as it was not supported by any reason.

As to the Notice listing causes, the landlord bears the burden of proving he has grounds to end this tenancy.

I find that the landlord has submitted insufficient evidence to prove the tenant 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.

The landlord first said he wanted his son to move in and then changed his story shortly thereafter and said the tenant had disturbed other occupants, without specifying who the occupants might be. The landlord said the tenant had stolen food, but provided no proof. The landlord's contradictory testimony caused me to doubt his credibility. As I could not rely on the landlord's testimony and with the lack of any supporting documentary evidence, I find the landlord has not supported the Notice to end the tenancy.

As I find the landlord has not proven any grounds to end this tenancy, I therefore **order that the two 1 Month Notices to End Tenancy dated and issued by the landlord on September 24, 2012, are cancelled and are of no force or effect.** This tenancy will continue until it ends in accordance with the Act.

The landlord has a contract with the tenant and has obligations under the *Act* as a result. I find that rather than prove a cause to end the tenancy, the landlord has demonstrated that he is unfamiliar with his obligations under the Residential Tenancy Act in providing the tenant with his right to quiet enjoyment. Section 28 of the *Act* states that a tenant is entitled to quiet enjoyment including, but not limited to, rights to reasonable privacy; freedom from unreasonable disturbance; exclusive possession of the rental unit subject only to the landlord's right to enter the rental unit in accordance with the *Act*; use of common areas for reasonable and lawful purposes, free from significant interference. The landlord is advised that issuing any further frivolous Notices could result in a finding at a later dispute resolution hearing that the tenant's rights to quiet enjoyment have been violated.

I also find that the landlord was unaware that he was to provide a written tenancy agreement for the tenant. I therefore direct the landlord to prepare a written tenancy agreement for the tenant. If the parties cannot agree on the terms of the tenancy, I order that the standard terms apply, as those are defined under the Act.

I also order that the landlord issue to the tenant a receipt for any payment made in cash, as required under section 26 of the Act.

As the landlord appears to have little understanding of the Act, I am enclosing a copy of a guidebook to the Residential Tenancy Act for his use.

Conclusion

The tenant's application is granted as I have cancelled the landlord's two 1 Month Notices to End Tenancy for Cause, dated and issued September 24, 2012.

The landlord is directed to provide a written tenancy agreement for the tenant, listing at the minimum the standard terms as provided under the Act.

The landlord is directed to issue the tenant a receipt for any payments made in cash.

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* and is being mailed to both the applicant and the respondent.

Dated: November 05, 2012.

Residential Tenancy Branch