



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

This hearing was convened on the tenant's application of October 24, 2012 seeking to have set aside a Notice to End Tenancy for cause served by registered mail sent on October 15, 2012 and setting an end of tenancy date of November 30, 2012.

Issue(s) to be Decided

This matter requires a decision on whether the Notice to End Tenancy should be set aside or upheld.

Background and Evidence

This tenancy in an approximately 120 unit assisted housing building began on April 1, 2007. Rent is \$357.50 per month and the landlord holds a security deposit of \$150.

During the hearing the landlord gave evidence that the Notice to End Tenancy had been served after years of complaints about the subject tenant, DS, from another tenant, CJT and the two had had difficulty getting along since the subject tenancy began. CJT attended the hearing as a witness.

The landlord stated that service of the Notice to End Tenancy had followed a number of cautions to both parties, but matters were brought to a head when CJT complained that DS had pushed her when she went for morning coffee on October 15, 2012. DS prepares community coffee each morning in a common area of the rental building as a volunteer.

The landlord stated that he had subsequently received a second report that DS again pushed CJT on the morning of November 20, 2012.

DS denied that he had pushed CJT but concurred that he had blocked her access to the coffee urn, and on at least one of the occasions had made unfriendly comment about some past incident.

The landlord stated that he had since had an opportunity to view security video recordings of the incident and stated that, while it was apparent that DS had obstructed CJT's access to the coffee on both occasions, there was no evidence that he had pushed her. In addition, a staff member had been present during one of the incidents and had also told the landlord that he or she had seen no push.

The witness, CJT, had submitted a number of notes detailing various unpleasant encounters with the subject tenant and various complaints to the landlord were submitted into evidence.

In one incident, she recorded the applicant tenant using profane language toward her which he acknowledged having done in a response to a false accusation she made against him regarding her electric scooter.

The tenant submitted into evidence a petition bearing the signatures of 65 other tenants stating that CJT herself had, by her conduct, diminished their "quality of life and freedom from unreasonable disturbance."

At one point CJT gave evidence that another tenant who had been evicted recently had committed suicide two days before he was to leave and it was primarily because of the applicant tenant.

The landlord stated that the eviction of that tenant resulted from a conflict with five others and had absolutely nothing to do with the applicant tenant.

Analysis

Section 47(1)(d) of the *Act* provides that a landlord may issue a Notice to End Tenancy for cause in circumstances in which:

"the tenant or a person permitted on the residential property by the tenant has:

- (i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property,"

While I find that the conduct of the applicant tenant has on occasion been petty and rude, I am persuaded to some degree of the sincerity of his statement that he believes the landlord should not have to spend so much of his time attempting to resolve a conflict between two tenants, time that could well be spent on constructive activities to the benefit of occupants of the other 120 or so rental units.

I accept the tenant's promise that he can desist from interfering with the complainant tenant and, at the very least afford her the courtesy of standing aside when she approaches the coffee urn, and to desist from using profanity toward her at any time.

In reaching this decision, I have taken into account the apparent probability that CJT was exaggerating in stating that she had been pushed according to the video record and the direct observation of a staff member. I have also considered her attributing the eviction and suicide of another tenant to DS when, according to the landlord, DS had absolutely nothing to do with the incident.

In addition, while a reasonable degree of skepticism must be applied to the interpretation of petitions, I find that there must be some merit in the applicant tenant's submission that the conflict is not one sided.

With some reservation, I find that the Notice to End Tenancy should be set aside, but on the understanding that the evidence submitted with the present application can be considered again if it is necessary for the landlord to serve another such notice.

Conclusion

The Notice to End Tenancy of October 5, 2012 is set aside and the tenancy continues.

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: November 29, 2012.

Residential Tenancy Branch