



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, OLC, LAT, O

Introduction

A substantial amount of documentary evidence, photo evidence, and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

Issue(s) to be Decided

First of all it is my decision that I will not deal with all the issues that the applicant has put on the application. For claims to be combined on an application they must related.

Not all the claims on this application are sufficiently related to the main issue to be dealt with together.

I therefore will deal with the request to cancel the notice to end tenancy and I dismiss the remaining claims with liberty to re-apply.

Background and Evidence

Landlord testified that:

- The tenants in this rental property do not get along, and as a result the applicant ends up fighting with all the other tenants.
- She is tired of all the fighting and therefore she has given notices to end tenancy to all the tenants in the rental property.
- This past November the issues escalated to the point where the applicant kicked a hole through the door of one or the other tenant's rooms.
- She is therefore asking that the notice to end tenancy be upheld.

The tenant testified that:

- The landlord has refused to deal with issues between the tenants in the rental unit, and as a result arguments have ensued.
- These arguments are not all one-sided, and in fact the actions of the other tenants have been very unreasonable, including loud noises on an ongoing basis during fornication.
- These loud fornication noises occur at any hour of the day and night, and it was after having put up with this noise for a lengthy period of time that he kicked the door of the other tenants to get their attention, never expecting that his foot would go through the door.
- That door has since been replaced, and this incident occurred well before the landlord gave a notice to end tenancy at the end of December 2012.
- He does want to move out of the rental unit but on his own terms and is willing to move at the end of February 2013, but he does not believe that he should be evicted and asks therefore that the notice to end tenancy be canceled.

Analysis

It is my finding that the landlord has not met the burden of proving that the applicant is unreasonably disturbing the other occupants of the rental property, and in fact the landlord testified that she's evicting all the tenants because all the tenants are not getting along.

The landlord has not shown that this tenant is the one who is unreasonably disturbing the other occupants, any more than the other occupants are unreasonably disturbing this tenant. The landlord even admitted that she thinks it is unreasonable that this tenant has had to put up with the fornication noises coming from the other tenants.

The tenant has admitted that he put a hole through a door back in November 2012, however the door has since been replaced, and I fail to see how it relates to a notice to end tenancy that's been given on December 31, 2012, well after that incident occurred.

Conclusion

The notice to end tenancy dated December 31, 2012 is hereby canceled and this 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: January 31, 2013

Residential Tenancy Branch

