



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, AAT

Introduction

This hearing was convened in response to an application filed by the tenant seeing to cancel a Notice to End Tenancy and seeking to compel the landlord to have access to and from the rental unit for the tenant and her guests.

Both parties appeared at the hearing of this matter and gave evidence under oath.

Issue(s) to be Decided

Does the landlord have cause to end this tenancy? If not, should the landlord be compelled to allow the tenant and her guest's access to and from the rental unit?

Background and Evidence

The Landor testified that two years previously tenant's daughter came to live with her in the suite which is one of multiple suites in the rental building. The landlord testified that while the daughter was resident there were fights, screaming, yelling and the tenant's daughter and guests smoked cigarettes and marihuana in the rental unit and outside the rental unit. The landlord testified that his other tenants were in fear of their safety and the landlord asked the tenant's daughter to vacate which she eventually did.

This past December the tenant advised that her daughter was 8 months pregnant and she and her common-law husband were out of work and had no place to live. The tenant says that her daughter's own rental unit had been flooded and there was mould and their landlord in that unit asked them to vacate by December 15, 2012 so that repairs could be undertaken. The tenant asked the landlord if her daughter could stay at the rental unit temporarily because of the emergency and the landlord agreed advising that they could stay only until January 1. The landlord testified however that the tenant's daughter could not leave so quickly due to unemployment and lack of income problems. Further, the fighting, screaming and yelling started up again and the landlord served a 1 month Notice to End Tenancy for Cause. The landlord testified that

he also discovered that the tenant had removed the smoke detector in her unit and this had him concerned.

The tenant says the landlord was going to allow her daughter to stay but only if she paid extra rent. The tenant says she had hoped her daughter and common-law husband would be gone by now and she understand that no one wished to live with the fighting and yelling that goes on. The tenant says that her daughter and common-law husband are under a great deal of stress and this causes the arguments. The tenant says the landlord did not help the situation when he served them with a 1 month notice to end tenancy as this caused a lot of anger.

The tenant says they never smoke in the suite but they do smoke outside. The tenant responded that the smoke detector was down because she was painting the rental unit. The tenant asked if the landlord would reconsider his position as the tenant's daughter and husband will be leaving this coming weekend.

The landlord agreed he attempted to raise the rent in the hope that the tenant and her daughter and son-in-law would leave and to pay for the extra wear and tear on the rental unit. However he does not wish to raise the rent he only wishes the tenant to vacate. The landlord responded that he had a very difficult time getting the tenant's daughter to leave last time she lived here and caused so much trouble. The landlord lives in the rental house too and he says he fears that the daughter and husband will not leave or, if they do, they will return again. The landlord testified that his family and the other tenants are frightened of the violence and arguments and they want this tenancy to end so they can live without that fear.

The tenant asked if the landlord could give her some time to leave.

Analysis

The landlord has issued a 1 month Notice to End Tenancy for cause stating the tenant or person permitted on the property by her has significantly interfered with or unreasonable disturbed another occupant or the landlord. The landlord's undisputed evidence is that the daughter has lived in the rental unit previously and has been asked to leave for causing a disturbance. Now that she has returned the evidence shows that the daughter is once again displaying outbursts of anger and engages in yelling and screaming which frightens the resident landlord's family. I therefore find that the landlord has grounds to end this tenancy and I dismiss the tenant's application seeking to cancel the Notice to End Tenancy.

The landlord has requested an Order of Possession. When a tenant's application seeking to cancel a Notice to End Tenancy is dismissed and the landlord requests an Order of Possession the landlord is entitled to that Order.

The landlord has agreed to allow the tenant to remain until February 28, 2013 and I will therefore issue an Order of Possession effective on that date.

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 30, 2013

Residential Tenancy Branch

