



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

Decision

Dispute Codes: CNC, OPC, FF

Introduction

This Application for Dispute Resolution by the landlord was seeking an Order of Possession based on a One-Month Notice to End Tenancy for Cause dated February 2, 2013. The hearing was also to consider a cross application by the tenant seeking to cancel the One-Month Notice to End Tenancy.

Both parties were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained. Participants had an opportunity to submit documentary evidence prior to this hearing, which has been reviewed. The parties were also permitted to present oral testimony and make submissions during the hearing. I have considered all of the evidence provided.

Each party confirmed receipt of the other party's evidence. Neither party raised any issues regarding service of the application or evidence. I have reviewed all testimony and submissions. However, only evidence relevant to the issues and findings in this matter are referenced in this decision.

Issue(s) to be Decided

Should the One Month Notice to End Tenancy for Cause be cancelled?

Background and Evidence

The tenancy began on May 15, 2011 and the rent is \$600.00 per month.

Submitted into evidence was a copy of the tenancy agreement, a copy of the One Month Notice to End Tenancy for Cause, copies of other notices, copies of communications, written testimony, copies of utility bills, phone records and proof of service.

The One-Month Notice to End Tenancy for Cause dated February 2, 2013 showed an effective date of March 31, 2013 and indicated that the tenant had significantly

interfered with or unreasonably disturbed another occupant or the landlord of the residential property.

The landlord testified that the Notice was issued because the tenant had persistently acted in a hostile and abusive manner towards the landlord and had disturbed the landlord and other residents. The landlord testified that the tenant has yelled at the landlord and used foul language on several occasions. The landlord gave testimony with respect to an incident where the tenant threatened the landlord with a knife. The landlord acknowledged that no police charges were laid.

The tenant denied physically threatening the landlord but stated that she had merely advised the landlord, through a locked door, that she was prepared to defend herself against another resident's violent conduct. The tenant testified that at that time she lived in fear of the other resident living in the complex, who has since moved out. The tenant testified that this other resident had also made repeated complaints to the landlord about the tenant that were completely without merit.

Analysis

The burden of proof is on the landlord to justify the Notice.

Section 28 of the Act protects a tenant's right to quiet enjoyment and this right applies to all residents in the complex. I find that the landlord did provide evidence that the tenant had spoken to the landlord in, what the landlord perceived as, a disrespectful and hostile manner.

However, in regard to the other concerns about the tenant's conduct, I find that the documentary evidence from the landlord only proved that complaints were made, but the documentation does not serve to verify the validity of these complaints. The Tenant disputed the testimony. Moreover, the other resident, with whom the tenant had a controversy, was not present as a witness and thus could not be cross-examined by the tenant. I find that the evidence as presented is comprised of conflicting verbal testimony and written statements.

In light of the above, I find that there was not sufficient evidence to prove that the tenant's conduct warrants ending the tenancy for cause. That being said, I find that the tenant is now aware that excessive noise such as yelling, loud music, foul language or other boisterous or unruly activities could risk bringing about the end of this tenancy relationship.

Although I grant the tenant's request to cancel the One-Month Notice to End Tenancy for Cause, the tenant is hereby cautioned that this decision serves as a warning and, if

any significant interference or disturbance is inflicted on the landlord or residents in the complex going forward, it could place the tenancy in serious jeopardy.

In cancelling this Notice, I order that:

- the tenant and the landlord both restrict all communications with each other to written form and avoid verbal conversations, unless absolutely necessary.

In addition, I order that the tenant to refrain from the following conduct:

- Verbally abusing, or using foul language towards, the landlord or any other person in the complex.
- Making excessive noise or engaging in boisterous or unruly conduct that disturbs others.

Based on the evidence and with the provisions contained above, I hereby order that the One-Month Notice to End Tenancy of February 2, 2013 be cancelled and of no force nor effect.

Should the tenant not comply with the above orders, the landlord is at liberty to issue another One Month Notice to End Tenancy for Cause.

Each party is responsible for their own costs of the application.

Conclusion

The tenant is successful in the application and the One Month Notice to End Tenancy for Cause was cancelled.

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: March 25, 2013

Residential Tenancy Branch