



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

The tenant applies to cancel a one month Notice to End Tenancy served May 27, 2013. The Notice alleges that the tenant or a person permitted onto the property by the tenant has either significantly interfered with or unreasonably disturbed another occupant or has seriously jeopardized the health or safety or lawful right of another occupant or has put the landlord's property at significant risk.

The Notice also alleges that the tenant has engaged in illegal activity that has, or is likely to either damage the landlord's property or adversely affect the quiet enjoyment, security safety or physical well-being of another occupant or the landlord or illegal activity that has, or is likely jeopardize a lawful right or interest of another occupant or the landlord.

Proof of any of these claims justifies a landlord in ending the tenant pursuant to s. 47 of the *Residential Tenancy Act* (the "Act").

Issue(s) to be Decided

Does the relevant evidence presented at hearing show, on a balance of probabilities, that the tenant or a person permitted onto the property by the tenant has committed any of these acts?

Background and Evidence

The rental unit is a three bedroom townhouse in a 90 townhouse development. The tenancy started in November 2010. The tenant pays \$529.00 of the subsidized rent. She occupies the premises under a written tenancy agreement that permits only her, her younger daughter and her son to live there.

In or about December 2012, the tenant's older daughter and her daughter's two young children came to live with her. This appears to be a breach of what might be argued to be a "material term" of the tenancy agreement. However, before a landlord may evict a tenant for that breach, the landlord must give the tenant written notice to correct the breach (s. 47(1)(h) of the *Act*) and that has not occurred here. It appears that presently, the daughter's children have moved away to their other grandmother's residence and the tenant's elder daughter remains while she secures a new place.

The landlord's representative Ms. S.R. read in the signed statement of Ms. M.A. B., neighbour in the complex, to the effect that on May 24 a girl from unit 120 (the tenant's unit) had a pit bull dog on a leash and half an hour later Ms. B. observed the dog running at large. The dog ran towards her child. She intervened and chased the animal away. According to Ms. B., the tenant's daughter came and threatened to kill her. Ms. B. called 911.

Ms. D.T., a neighbour in the complex, testified she witnessed the pit bull incident and called the property manager to complain. She says that the elder daughter and her boyfriend came out of unit 120 about an hour later. When Ms. D.T. tried to speak to them about the dog they threatened her and the boyfriend told her she "would not live to see another day." She called 911.

Ms. D.T. also testified that since December 2012 drug dealers have been frequenting the vicinity of unit 120. She describes herself as a recovering addict and says the tenant is an addict as well, but still uses drugs. She says that she approached the dealers and confirmed they were dealing drugs. She and others in the complex have been purposefully confronting the dealers. She is of the opinion that the tenant "disappeared" from the rental unit for about two months earlier this year and that the place became a "flophouse" for teenagers drinking and using drugs.

Ms. D.T. testified that on April 18th of this year she observed the tenant's older daughter in a fist fight with a man, arguing about which of the two would punish a certain child. Ms. D.T. says her children witnessed this altercation.

Ms. D.T. testified that on May 20th, 2013, she observed the tenant talking to a drug dealer in a car. The drug dealer told the tenant that she had to pay the money she owed or he would shoot up the place. Ms. D.T. says her child heard this statement and was traumatized by it.

Generally, she says she has called the police about the tenant more than 15 times and has been awakened by noise from the tenant's rental unit more than 15 times. She

says she can smell marijuana smoke when she walks by the tenant's rental unit. She is of the view that since the eviction notice was served, things have gotten worse. Her eight year old son is scared about what might happen.

Ms. C.P., a resident of ten years in the complex, testified that on May 24 she observed the tenant's two daughters and a boyfriend "fighting" with Ms. D.T. about the pit bull. She testified that she heard the daughter's boyfriend say he would kill Ms. D.T. and her child. She called the police. She also heard the tenant's drug dealer threaten to "shoot up the place." She says her kids heard it as well and were traumatized. She says the tenant's daughter has uttered threats at her on another occasion. She says there is "constant partying" at the tenant's rental unit. She has seen twenty teenagers scatter when the police arrive and then re-form and continue on partying when the police have left. She says she is "petrified." She says it all started in December when the tenant's older daughter and kids arrived. She confirms that the tenant appeared to "disappear" for a couple of months.

Ms. H.H., the immediate neighbour of the tenant, testified that she shares a common wall with the tenant. She has been there two years but has not made friends with the tenant. She says she can hear constant drinking and arguing. Sometimes the smell of drugs causes her to leave. She has called the police numerous times without effect. She says she has observed numerous occasions when someone comes to the unit, takes the tenant then returns her shortly. She has called the police more than 20 times but without result. She says she is afraid and has heard threats made to others; it is interfering with her enjoyment of her own rental unit.

Ms. R.D. gave evidence. She has been a resident in the complex for seven years but wants to move away because of the goings on from unit 120. She is afraid that the goings on in unit 120 are corrupting her seventeen year old son who has taken to visiting the unit against her wishes. She has gone to the door of 120 to retrieve her son and been shouted at in foul language.

The tenant gave evidence in her own defence. She admits to having gone through treatment for addiction issues three years ago and now only occasionally uses. She says the pit bull dog is not hers but lives four doors down. She has never "disappeared" from her rental unit but only been away on a few weekends. She admits there are lots of teens visiting the rental unit but there are no drug people "coming and going" as alleged.

She says she is unaware of any threats. She feels the neighbours, particularly Ms. D.T., have a "vendetta" against her and that Ms. D.T. had said she would get her

evicted. She describes herself as a quiet person who goes to work everyday and to her church to volunteer.

She admits that her elder daughter drinks a lot and that there was no trouble until her elder daughter moved in.

In response, the landlord's agent says she had a meeting with the tenant about the pit bull and it was never mentioned that the dog belonged to someone else and in fact the tenant said at the meeting that she didn't want the dog at her place anyway.

Analysis

The landlord's claim is hampered by a lack of detailed particulars of the dates and incidents alleged to justify the eviction. However, it is apparent that the landlord's agent has had significant verbal interaction with the tenant about the various incidents and I find that the tenant had a clear understanding of what the landlord would be alleging at this hearing.

While it is possible the five other women who gave evidence are "ganging up" on the tenant to try to evict her for no good reason, I consider that possibility to be a remote one. Rather, I find that the other women are ganging up to eradicate a significant problem in the complex that is threatening the enjoyment of their homes and community and is posing a significant threat to themselves and their children.

The evidence shows that the tenant is either directly participating in or allowing persons she is permitting on the property to engage in drug activity. That activity is promoting the presence of drug dealers and their presence threatens the safety and well being of all in the complex. The evidence shows that the tenant's elder daughter and her boyfriend had seriously threatened other occupants with physical harm and have significantly traumatized children in the complex as a result. Finally, the tenant is permitting her rental unit to be patronized by teenagers drinking to excess and drugging, with associated noise and disruption of the surrounding community despite complaints and warnings.

I find that the tenant's conduct or the conduct of persons she has permitted on the property have significantly interfered with and unreasonably disturbed other occupants of the complex. I find that the threatening conduct of the tenant's elder daughter and her boyfriend, both persons the tenant has permitted on the property, have seriously jeopardized the safety of other occupants.

For these reasons I dismiss the tenant's application to cancel the one month Notice to End Tenancy.

Conclusion

The tenant's application is dismissed. The landlord will have an order of possession as verbally requested at hearing, to be effective at one o'clock in the afternoon on August 31, 2013, as suggested by the landlord's representative Ms. R..

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: July 12, 2013

Residential Tenancy Branch