



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, FF

Introduction

This hearing dealt with the tenants' Application for Dispute Resolution seeking to cancel a notice to end tenancy.

The hearing was conducted via teleconference and was attended by the landlord; the tenant; the tenant's son who is an occupant roommate; and the tenant's visiting son.

During the hearing, the landlord did not verbally request an order of possession should the tenants be unsuccessful in their Application.

Issue(s) to be Decided

The issues to be decided are whether the tenants are entitled to cancel a 1 Month Notice to End Tenancy for Cause and to recover the filing fee from the landlord for the cost of the Application for Dispute Resolution, pursuant to Sections 47, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The parties submitted a copy of a tenancy agreement for a month to month tenancy that began on August 1, 2013 for a monthly rent of \$875.00 due on the 1st of each month with a security deposit of \$440.00 paid.

The landlord states that despite the fact that the tenancy agreement names only the tenant and her granddaughter as the tenants the granddaughter has never stayed there and the tenant's son has been occupying the rental unit, since the start of the tenancy.

The tenancy agreement stipulates that "Additions to tenants not agreed upon will result in rent increase or termination of tenancy." The male occupant testified that he offered to pay additional rent but the landlord rejected the offer. The landlord submits the male occupant knows that he is not supposed to be staying there. The tenant confirmed, during the hearing, that he was aware he was not supposed to be staying in the unit.

The landlord submits that every since the tenant moved in there has been loud banging and door slamming in the rental unit. She stated that the tenant and her son fight on an ongoing basis and this also disturbs the landlord and her family who live above the rental unit.

As a result the landlord issued a 1 Month Notice to End Tenancy for Cause on August 29, 2013 with an effective vacancy date of September 30, 2013 citing the tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord.

The tenant submits that she hears the doors upstairs when the landlord enters or exits her home. The male occupant testified that he and his mother have had some fights during the tenancy.

The landlord submits that she has spoken to the tenant and the male occupant about these issues and she provided a letter of explanation, dated August 29, 2013 to the tenants when she issued the 1 Month Notice.

Analysis

Section 47 of the *Act* allows a landlord to end a tenancy by giving notice to end the tenancy if the following applies: The tenant or a person permitted on the residential property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property.

While I am satisfied the tenants exhibit behaviour that causes disturbances to other occupants in the residential property including the landlord, I find the landlord has failed to provide any documented warnings that failing to change their disturbing behaviours will result in the landlord ending the tenancy.

As such, I find the 1 Month Notice to End Tenancy for Cause issued by the landlord on August 29, 2013 to be ineffective.

Conclusion

For the reasons noted above, I grant the tenant's Application and find the tenancy will remain in full force and effect. However, I caution the tenant that she should consider herself sufficiently warned that any further unreasonable disturbances may give the landlord cause to end the tenancy.

I also caution the tenant that I find the landlord has sufficiently warned the tenant that by having the male occupant living there she has breached a material term of the tenancy agreement and the landlord has already provided the tenant with a reasonable time to correct this breach. If the tenant does not have the male occupant vacate the rental unit immediately the landlord may issue a 1 Month Notice to End Tenancy for Cause to end the tenancy for failing to correct a breach of the tenancy agreement.

I find the tenant is entitled to monetary compensation pursuant to Section 67 in the amount of **\$50.00** comprised of the fee paid by the tenant for this application. I order the tenant may deduct this amount from a future rent payment in satisfaction of this claim.

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: October 09, 2013

Residential Tenancy Branch