



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MT, CNC

Introduction

This hearing dealt with the Tenants' Application for Dispute Resolution, seeking an order to allow more time to apply to cancel a Notice to End Tenancy and for an order to cancel a Notice to End Tenancy issued for alleged cause.

Both parties appeared at the hearing. The hearing process was explained and the participants were asked if they had any questions. Both parties provided affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure; however, I refer to only the relevant facts and issues in this decision.

Preliminary Issues

The Agent for the Landlord and the appearing Tenant agreed that the one month Notice to End Tenancy for alleged cause was personally served on the Tenants on August 16, 2013. The Tenants applied to cancel the Notice on August 26, 2013. Under the Act the Tenants had 10 days to file an Application to dispute the Notice, not including the day they were served with the Notice. In this case the Tenants applied on the tenth day, August 26, 2013. Therefore, I find the Tenants applied to cancel the Notice on time and do not require an order for extra time to make the Application.

Issue(s) to be Decided

Should the Notice to End Tenancy be cancelled?

Background and Evidence

This tenancy began on or about June 1, 2013. The monthly rent was \$800.00 and the tenancy agreement set out that two adults and two children were to occupy the rental unit. A pet damage deposit was received at the start of the tenancy.

The Landlord served the Tenants with a one month Notice to End Tenancy alleging that the Tenants had allowed an unreasonable number of occupants in the rental unit, that they had unreasonably disturbed another occupant or the Landlord, that they were putting the Landlord's property at significant risk, that they had adversely affected the quiet enjoyment of the other occupants, and that they had not paid a pet damage deposit within 30 days as required by the Act.

The Agent for the Landlord testified that two other occupants (other renters) at the residential property had written letters of complaint to the Landlord about the excessive noise all night at the rental unit, that the Tenants had three dogs in the rental unit, that two extra people were living there, and that the Tenants did not pick up their garbage in the yard. Copies of these complaint letters were received in evidence from the Landlord.

The Landlord also submitted in evidence several warning letters, which are dated starting in July of 2013, warning the Tenant that she was only allowed one dog in the rental unit and that now she had three dogs, the Landlord wanted to increase the pet damage deposit.

The Tenants submit they had verbal permission from an Agent for the Landlord to have more than one dog. The Agent for the Landlord has submitted a letter stating he only approved one small dog for the Tenants.

The Landlord alleges there are two other "near adults" living in the rental unit with the Tenants.

The appearing Tenant explained these were her twin siblings and were 17 years of age. She testified they were staying in the rental unit with her all through the summer, alternating one week at the rental unit and another week at a different residence with the Tenant's sister. At the time of the hearing these two people were staying at the rental unit with the Tenant helping her take care of two children.

Toward the end of the hearing the appearing Tenant testified she had given the Landlord a notice the Tenants were ending the tenancy on October 15, 2013, and they had only paid a half of the rent for the month.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find that the Notice to End Tenancy is valid and should not be cancelled.

I accept the evidence of the other occupants at the property that the Tenants had unreasonably disturbed them.

I also find the Tenants had allowed an unreasonable amount of occupants residing in the rental unit. While the Tenant called them visitors or guests, the testimony from the Tenant was that they had alternated between the rental unit property and another property. From this it appears that the extra occupants must have stayed in the rental unit for approximately half of the summer. I also accept the evidence of the Landlord that these extra guests caused a large increase in the utilities bill to the Landlord, as more people occupying a rental unit will use more utilities. A guest or visitor is usually someone who might visit for two or three weeks out of an entire year. In this instance, the cumulative stay of the Tenant's siblings amounts to far more than what is expected from a guest. It does not excuse them that they stay a week and leave for a week, only to return for another week. I find the cumulative time spent in the rental unit does indicate these two people were additional occupants.

Having made the above findings, I dismiss the Tenant's Application without leave to reapply. In any event the Tenants have given notice they are vacating the rental unit on October 15, 2013.

Having dismissed the Application of the Tenants, the Agent for the Landlord orally requested an order of possession during the hearing. Pursuant to section 55 of the Act, I must grant that request.

I grant and issue an order of possession to be effective **at 1:00 p.m. on October 15, 2013**, in favour of the Landlord, which date was accepted by the Agent for the Landlord.

Conclusion

I find the Notice to End Tenancy is valid and should not be cancelled. The Tenants have also given notice they are ending the tenancy.

Pursuant to section 55 of the Act, the Landlord is issued an order of possession for the rental unit effective at **1:00 p.m. October 15, 2013.**

This decision is final and binding on the parties, unless otherwise provided under the Act, and is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act.

Dated: October 07, 2013

Residential Tenancy Branch

