



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes Landlord: OPC, FF
Tenant: CNC

Introduction

This hearing dealt with cross Applications for Dispute Resolution. The landlord sought an order of possession and a monetary order. The tenant sought to cancel a notice to end tenancy.

The hearing was conducted via teleconference and was attended by both landlords and the tenant.

Neither party provided any documentary evidence to each other or to the hearing. During the hearing neither party had available a copy of the 1 Month Notice to End Tenancy for Cause issued by the landlord.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession for cause; and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to Sections 47, 55, 67, and 72 of the *Residential Tenancy Act (Act)*.

It must also be decided if the tenant is entitled to cancel a 1 Month Notice to End Tenancy for Cause, pursuant to Section 47 of the *Act*.

Background and Evidence

The tenant testified the tenancy began in July 2012 as a month to month tenancy for a monthly rent of \$900.00 due on the 1st of each month with a security deposit of \$450.00 paid.

The tenant testified she received the 1 Month Notice to End Tenancy for Cause on September 20, 2013 and it stated an effective date of October 31, 2013. The tenant testified the landlord had indicated that there were too many occupants in the rental unit and that the landlord had noted beside this cause that the additional occupants were 3 cats.

The tenant submits the landlord had also indicated on the notice that there was damage to the rental unit and they were afraid the unit would burn down.

The landlord testified they had received complaints from an upstairs tenant that these tenants were disturbing them by being loud and fighting. The landlord testified they spoke with these tenants and told them they had to stop fighting. The landlord confirmed no written warnings were provided to the tenants.

The landlord testified that the events in question occurred in June and July 2013 and when asked why the Notice was not issued until September she also testified that they needed the basement empty because her daughter was getting married and wanted to move in to the rental unit.

Analysis

While Section 47 of the *Act* does allow a landlord to end a tenancy when there is cause, as defined in the Section, it is incumbent on the landlord to provide written warnings to the tenants of any behaviour that may lead to an ending of the tenancy.

I find the landlord has failed to provide sufficient warning of the consequences regarding any disturbing behaviours and they have provided no evidence of damage to the property. I find the landlord has failed to establish there are no pets allowed under the tenancy agreement. For all of these reasons I find the landlord has failed to establish cause to end the tenancy.

Further, I find that the landlord also intends to end the tenancy because her daughter wants to move into it. Section 49 allows the landlord to end a tenancy for such a purpose without needed to provide prior warning to the tenants but rather by issuing a 2 Month Notice to End Tenancy for Landlord's Use of Property. If the landlord does intend to end the tenancy for their own purposes and issue a notice under Section 49 they must also provide compensation to the tenant in an amount equivalent to 1 month's rent.

Conclusion

As per the above, I dismiss the landlords' Application in its entirety.

I also grant the tenant's Application and cancel the 1 Month Notice to End Tenancy for Cause and find the tenancy remains in full force and effect.

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: November 07, 2013

Residential Tenancy Branch

