



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Clifton Hotel
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with the tenant's application pursuant to section 47 of the *Residential Tenancy Act* (the *Act*) for cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice).

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions and to cross-examine one another. The tenant confirmed that he received the landlord's 1 Month Notice posted on his door on October 28, 2013. The tenant testified that he handed a copy of his dispute resolution hearing package to one of the landlord's front desk staff on October 31, 2013. The landlord testified that he received the tenant's dispute resolution hearing package as declared by the tenant. I am satisfied that the parties served one another with the above documents in accordance with the *Act*. I am also satisfied that the tenant provided a copy of his written evidence package to the landlord in accordance with the *Act*. The landlord provided no written evidence for this hearing.

At the hearing, the landlord made an oral request for an Order of Possession based on the 1 Month Notice, if the tenant's application were dismissed.

At the commencement of the hearing, the tenant's legal advocate (the advocate) asserted that the landlord's 1 Month Notice was of no legal effect because the 1 Month Notice did not identify any name for the landlord. I advised the advocate that I would take his comments under advisement and reserve my decision on his assertion regarding the information missing on the landlord's 1 Month Notice. I also noted that section 52 of the *Act* outlines the necessary information that a landlord has to include in a notice to end tenancy on the correct form issued by the Residential Tenancy Branch (the RTB).

Issues(s) to be Decided

Should the landlord's 1 Month Notice be cancelled? If not, is the landlord entitled to an Order of Possession?

Background and Evidence

This tenancy for a room in a single room occupancy hotel commenced on June 28, 2010. Although no written tenancy agreement is in place, the parties agreed that monthly rent is set at \$425.00, payable in advance on the first of each month.

The tenant and his advocate alleged that the landlord's 1 Month Notice was issued in retaliation for a successful application for a monetary Order issued in the tenant's favour on October 23, 2013.

The tenant entered into written evidence a copy of the 1 Month Notice. In that Notice, requiring the tenant to end this tenancy by November 30, 2013, the landlord's building manager cited the following reasons for the issuance of the Notice:

Tenant or a person permitted on the property by the tenant has:

- *significantly interfered with or unreasonably disturbed another occupant or the landlord;...*

Tenant has engaged in illegal activity that has, or is likely to:...

- *adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord;...*

Analysis

When a landlord issues such a notice and the tenant disputes the notice the onus is on the landlord to prove cause for issuing the notice. In this case, the landlord testified that his building manager had prepared the 1 Month Notice, but that circumstances prevented him from attending and supplying the reasons for issuing that Notice.

I asked the landlord to explain whether he was seeking an end to this tenancy on the basis of both of the reasons cited in the 10 Day Notice. The landlord was unable to identify any illegal activity undertaken by the tenant that would lead to an end to this tenancy for cause. As such, the landlord's sole reason for seeking an end to this tenancy narrowed to the claim that the tenant significantly interfered with or unreasonably disturbed the landlord. The landlord said that the tenant unreasonably disturbed his building manager, although he had neither written evidence from that manager nor sworn testimony to provide from that manager in that regard.

The landlord testified that there was an incident where the tenant was involved in a fight and returned to the rental property with a torn coat and blood on him and his coat.

For his part, the tenant testified that he has not disturbed the other tenants in this building. He maintained that the police were called on one occasion involving the tenant and the building manager, but no charges were laid.

The advocate maintained that the landlord had not produced any meaningful evidence, documentation or witnesses to support the application for an end to this tenancy for cause. He repeated that the landlord's 1 Month Notice prepared by the landlord's building manager was issued in retaliation for the tenant's success in obtaining a monetary Order in October 2013.

I find that the landlord supplied very little evidence to support his request for an end to this tenancy for cause. In the almost complete absence of evidence from the landlord, I allow the tenant's application to set aside the 1 Month Notice.

Conclusion

I allow the tenant's application to set aside the 1 Month Notice. The landlord's 1 Month Notice is of no force or effect. This tenancy continues.

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: December 13, 2013

Residential Tenancy Branch

