



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding LIONS COURT HOLDING
and [tenant name suppressed to protect privacy]

Decision

Dispute Codes:

CNC, FF

Introduction

This Application for Dispute Resolution by the tenant was seeking to cancel a One-Month Notice to End Tenancy for Cause dated January 27, 2014.

Both parties were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained. The participants had an opportunity to submit documentary evidence prior to this hearing, and the evidence has been reviewed. The parties were also permitted to present affirmed oral testimony and to make submissions during the hearing. I have considered all of the affirmed testimony and relevant evidence that was properly served.

The One-Month Notice to Notice to End Tenancy for Cause was not submitted into evidence by either party, but both parties acknowledged it was served on the tenant.

Issue(s) to be Decided

Should the One Month Notice to End Tenancy for Cause be cancelled?

Background and Evidence

Submitted into evidence was a copy of a communication from the tenant stating, that she received an One Month Notice to End Tenancy for Cause after being locked out of the building by the landlord for 4 days due to her remote access key fob being turned off by the landlord.

The tenant stated that she refutes all three points that were ticked off in the One Month Notice to End Tenancy for Cause.

The landlord testified that the tenant and persons she has permitted on the premises have disturbed other residents and caused the police to repeatedly attend the rental unit. The landlord testified that the tenant has added another occupant in violation of a

clause in the tenancy agreement restricting the occupancy to one adult. No evidence was submitted by the landlord.

Analysis

The burden of proof is on the landlord.

Section 28 of the Act protects a tenant's right to quiet enjoyment. This right applies equally to all residents in the complex.

If the tenant had engaged in some of the conduct described, I find it likely that this may have constituted significant interference and unreasonable disturbance of other occupants or the landlord.

However, the evidence before me consists of nothing more than conflicting verbal testimony with the landlord making serious allegations and the tenant denying that they ever contravened the Act or agreement.

I find that terminating a tenancy for cause under the Act or tenancy agreement requires evidentiary support, particularly as the burden of proof to justify ending the tenancy rests squarely with the landlord.

I also find that it is a fundamental principle of natural justice that a party has the right to be warned in writing of the consequences of the behaviour and be given a fair opportunity to correct the behaviour before the tenancy is terminated by a landlord.

In the case before me, with or without a copy of the One-Month Notice to End Tenancy for Cause, I find that the landlord failed to sufficiently prove that the tenant's conduct had reached the threshold where termination of this tenancy was justified.

Given the above, I find it necessary to cancel the One Month Notice and find it of no force nor effect.

In cancelling this Notice, I order the landlord to comply with section 30 (1) of the Act, which states that a landlord must not unreasonably restrict access to residential property by (a) the tenant of a rental unit that is part of the residential property, or (b) a person permitted on the residential property by that tenant.

I also encourage these two parties to communicate in written form in future with respect to tenancy-related concerns and to retain copies of all communications.

I find that the tenant is entitled to be reimbursed the \$50.00 cost of the application and I order that the tenant reduce the next rental payment by \$50.00 to satisfy this compensation.

Conclusion

The tenant is successful in the application and the One-Month Notice to End Tenancy for Cause served on January 27, 2014 is ordered cancelled.

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: March 26, 2014

Residential Tenancy Branch

