



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding LI-CAR MANAGEMENT GROUP
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant to cancel a one month notice to end tenancy for cause (the, "notice") issued on March 18, 2014.

Both parties appeared, gave 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 at the hearing.

In a case where a tenant has applied to cancel a notice for cause Residential Tenancy Branch Rules of Procedure require the landlord to provide their evidence submission first, as the landlord has the burden of proving cause sufficient to terminate the tenancy for the reasons given on the notice.

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

Issue to be Decided

Should the notice to end tenancy issued on March 18, 2014, be cancelled?

Background and Evidence

The parties agree that a one month notice to end tenancy for cause was served on the tenant indicating that the tenant is required to vacate the rental unit on April 30, 2014.

The reason stated in the notice to end tenancy was that the tenant has:

- significantly interfered with or unreasonably disturbed another occupant or the landlord; and
- Seriously jeopardized the health or safety or lawful right of another occupant or the landlord.

The landlord's agent testified that the rental premise is a duplex, which has an upper and lower rental unit. The landlord's agent stated the lower unit renter is frequently in their office with complaints against this tenant. The complaints are that the tenant plays his music too loud, smoking marijuana, lots of human traffic and stomping of feet.

The landlord's agent testified that they issued the notice on the basis of the lower renter complaints; however, the lower tenant refused to provide any statements of complaints in writing and refused to appear as a witness. The landlord now believes the lower tenant may be fabricating stories.

The landlord's agent testified that the lower unit renter has been informed to notify them immediately of any complaints in order for them to attend and investigate, however, the complaints received are always after the alleged incident. The landlord's agent stated that this situation continues to place them in a situation which they are unable to provide any evidence to support the notice.

The tenant acknowledged that there was once an incident that he had with a guest that was making too much noise, however, he immediately resolved the problem and there have been no further incidents. The tenant denies any other complaints.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

After considering all of the written and oral submissions submitted at this hearing, I find that the landlord has provided insufficient evidence to show that the tenant has:

- significantly interfered with or unreasonably disturbed another occupant or the landlord;
- Seriously jeopardized the health or safety or lawful right of another occupant or the landlord.

In this case the renter in the lower unit, refused to issue complaints in writing, refused to attend the hearing as a witness and refused to notify the landlord at the time of the alleged incidents to give the landlord an opportunity to investigate. The tenant has denied any incident other than one, which was immediately rectified.

In light of the above, I find the landlord has failed to prove cause sufficient to terminate the tenancy for the reasons given on the notice. Therefore, I cancelled the notice and the notice has no force or effect.

Therefore, I grant the tenant's application to cancel the one month notice to end the tenancy for cause issued on March 18, 2014. The tenancy will continue until legally ended in accordance in the Act.

As the tenant has been successful with their application, the tenant is entitled to recover the cost of the filing fee from the landlord. Therefore, I authorize the tenant to deduct from June 2014, rent the sum of \$50.00 in full satisfaction of the claim.

Conclusion

The tenant's application to cancel a one month notice to end tenancy for cause is granted. The tenant is authorized a onetime rent reduction as stated above to recover the cost of the filing fee.

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: May 14, 2014

Residential Tenancy Branch

