



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, CNL

Introduction

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

I find that the one month Notice to End Tenancy dated April 4, 2014 and the two month Notice to End Tenancy dated May 2014 were sufficiently served on the tenant. Further I find that the Application for Dispute Resolution/Notice of Hearing was personally served on the landlord on April 16, 2014. With respect to each of the applicant's claims I find as follows:

Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the tenant is entitled to an order cancelling the one month Notice to End Tenancy dated April 4, 2014?
- b. Whether the tenant is entitled to an order cancelling the 2 month Notice to End Tenancy dated May 2014?

Background and Evidence

The written tenancy agreement provided that the tenancy would begin on June 1, 2010. The rent is subsidized and the tenant present rent is \$480 per month. The tenant(s) paid a security deposit of \$380 at the start of the tenancy.

Application to Cancel the two month Notice to End Tenancy:

The two month Notice to End Tenancy alleged the tenant failed to qualify to live in subsidized housing. The tenant subsequently provided the landlord with documentation indicating that she still had custody of her child. As a result the landlord stated he wished to withdraw the two month Notice to End Tenancy. **As a result I ordered that the two month Notice to End Tenancy be cancelled as withdrawn.**

Application to Cancel the one month Notice to End Tenancy dated April 4, 2014.

The one month Notice to End Tenancy relies on section 47(1)(d) of the Residential Tenancy Act. That section provides as follows:

Landlord's notice: cause

47 (1) A landlord may end a tenancy by giving notice to end the tenancy if one or more of the following applies:

...

- (d) the tenant or a person permitted on the residential property by the tenant has
 - (i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property,
 - (ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant, or

The landlord testified that he has received complaint letters from a number of other residents in the rental unit. Those tenants did not attend the hearing and give oral evidence or make themselves available for cross examination. The letters are not signed.

Briefly, the complaints alleged are as follows:

- A friend of the tenant dressed in a hooded coat and wearing a back pack entered her back yard on 4 occasions on his way to visit the tenant. On one occasion the resident saw this person looking through her back kitchen window.
- The tenant and another resident came over to her house and banged on the door and she ignored them. The tenant and the other person threatened her. The police were called.
- The tenant drove close to her and verbally abused her
- The tenant's son is not living with her.

The tenant disputed much of this evidence. She testified that she has custody of her son and while her son spent some time visiting his grandmother and he continues to live with her. She produced a letter from a social worker confirming this. The friend who visited her provided a letter denying looking through the window. She denied hammering on the front door of the tenant although she acknowledges being with a friend who knocked on the door. The friend was in a dispute with the complaining resident over their respective children. She denies intimidating or threatening other residents.

Determination and Orders

After carefully considering all of the evidence I determined that the landlord has failed to establish sufficient cause to end the tenancy. The landlord has the burden of proof to establish sufficient cause on a balance of probabilities. The landlord relied on the evidence contained in unsigned letters from other residents. One of the fundamental principles of our legal system is that a respondent must be given sufficient notice of the claims against her. The failure to give sufficient notice would amount to a denial of natural justice. Further, the tenant's oral response to the allegations was a satisfactory explanation. The landlord was given an opportunity to question the tenant on her evidence but declined. I determined in the circumstances that little weight can be given to the allegations of complaining residents where the complaining residents have not signed a letter of complaint, not attended the hearing to give oral testimony and make

themselves available for cross examination and where the oral evidence of the tenant disputes the allegations.

As a result I ordered that the one month Notice to End Tenancy dated April 4, 2014 be cancelled. The tenancy shall continue with the rights and obligations of the parties remaining unchanged.

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: June 05, 2014

Residential Tenancy Branch

