



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Lookout Emergency Aid Society
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with the tenant's Application for Dispute Resolution seeking to cancel a notice to end tenancy.

The hearing was conducted via teleconference and was attended by the tenant and an agent for the landlord.

During the hearing, the landlord verbally requested an order of possession should the tenant be unsuccessful in her Application.

Issue(s) to be Decided

The issues to be decided are whether the tenant is entitled to cancel a 1 Month Notice to End Tenancy for Cause, pursuant to Section 47 of the *Residential Tenancy Act (Act)*.

If the tenant is unsuccessful in her Application seeking to cancel the 1 Month Notice to End Tenancy for Cause it must be decided if the landlord is entitled to an order of possession, pursuant to Section 55 of the *Act*.

Background and Evidence

The landlord submitted a copy of a tenancy agreement signed by the parties on December 2, 2011 for a month to month tenancy beginning on December 2, 2011 for the monthly rent of \$375.00 with a security deposit of \$250.00 paid.

While neither party provided a copy of the parties agreed that the landlord issued the tenant a 1 Month Notice to End Tenancy for Cause on May 30, 2014 with an effective vacancy date of June 30, 2014 citing the tenant has allowed an unreasonable number of occupants in the unit; the tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord; and the 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.

The landlord submits the tenant has engaging in the sale of drugs on or near the property; has allowed her dog to bark throughout the night on an ongoing basis; is smoking in common areas where smoking is prohibited; is blocking fire exits with her possessions; and allowing guests in the building and into her unit with her at the rental unit.

The landlord has submitted many reports that appear to be written by both other tenants and staff at the property. Where names of complainants are found in documents they have been redacted. None of the reports provided can be attributed to any person, with the exception of a complaint from a neighbouring building commercial tenant. The landlord called no witnesses who have direct knowledge of any of the relevant issues. The landlord submits that names have been removed because of the fear of reprisals from the tenant and her boyfriend.

The tenant submits that she doesn't understand why the landlord is harassing her. She states that she has lodged complaints against staff and she believes this notice is in retaliation for those complaints.

The tenant acknowledges that she does walk around with a cigarette in her mouth throughout the residential property but it is never lit at these times. She acknowledges that her dog does bark occasionally but not all night long at any time. She also confirms that she did put some belongings in the hall but that she had done so to prepare for painting her unit. The tenant submits that she does not sell drugs on the residential property and she would never do so in front of children.

The tenant submits that her neighbour, who had been a problem in another area of the building and has been moved to next door to her, does cause disturbances all day and all night long.

Analysis

Section 47 of the *Act* allows a landlord to end a tenancy by giving notice to end the tenancy if one or more of the following applies:

- a) There are an unreasonable number of occupants in a rental unit;
- b) The tenant or a person permitted on the residential property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property, or
- c) The tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property.

When a landlord issues a 1 Month Notice to End Tenancy for Cause as allowed under Section 47, the burden is on the landlord to provide sufficient evidence to establish that they in fact have cause to end the tenancy.

Based on the evidence before me that excludes the identification of any complainant or witnesses with direct knowledge of the incidents that lead the landlord to issue a 1 Month Notice, I find the landlord has failed to meet the burden of proving cause to end the tenancy.

Conclusion

Based on the above, I grant the tenant may cancel the 1 Month Notice to End Tenancy for Cause issued by the landlord on May 30, 2014 and the tenancy remains in full force an effect.

As the tenant was successful in her Application I dismiss the landlord's verbal request for an order of possession.

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: July 21, 2014

Residential Tenancy Branch

